

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1943 & 1944/PUN/2024

Garware Technical Fibres Foundation, Plot No.11, Block-B, MIDC, Chinchwad, Pune- 411019. PAN : AAJCG1784F	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri Kishor B. Phadke
Revenue by : Shri Amol Khairnar

Date of hearing : 17.12.2024
Date of pronouncement : 20.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

Both the above captioned appeals filed by the assessee are directed against the separate orders dated 31.08.2024 passed by Ld. CIT, Exemption, Pune rejecting the application for registration in Form No.10AB under clause (iii) of section 12A(1)(ac) of the IT Act filed on 30.03.2024 and denying the application for approval in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act filed on 30.03.2024.

ITA No.1944/PUN/2024 :

2. The appellant has raised the following grounds of appeal :-

“1. The learned CIT (Exemption), Pune; erred in law and on facts in rejecting appellant's application for registration u/s 12A of ITA, 1961.

2. The learned CIT (Exemption), Pune; ought to have appreciated that appellant's activities are genuine and bonafide and as such, eligible for registration u/s 12A of ITA, 1961.

3. The learned CIT (Exemption), Pune; erred in law and on facts in not providing sufficient reasonable opportunity of being heard to the appellant, as provided u/s 12AB of the ITA, 1961; to submit the details / information. Appellant contends that, Appellant is keen to ensure complete and total compliance as so required, and the present situation is simply a fall-out of communication gap.

4. Appellant craves leave to add, alter, clarify, explain, modify, delete any or all of the grounds of appeal, and to seek any just and fair relief.”

3. Facts of the case, in brief, are that the assessee is a non-profit organisation registered under the provisions of the Companies Act, 2013 with an object to undertake various corporate social responsibility activities by way of formulation and execution of various projects and/or programmes and/or undertaking activities in relation to corporate social responsibility in areas or subjects specified in Schedule VII of the Companies Act, 2013 such as eradicate hunger, promote education, general equality, ensure environmental sustainability, promote national heritage etc. With a view to verify the genuineness of activities of the assessee and

compliance to requirement of any other law for the time being in force by the trust/institution as are material for the purpose of achieving its objects, a notice was issued by Ld. CIT, Exemption, Pune through ITBA portal on 29.05.2024 requesting the assessee to upload certain information/clarification as mentioned in the notice.

4. The assessee in response to above notice furnished desired details. After verifying these details, Ld. CIT, Exemption, Pune found certain discrepancies and asked for their clarification on or before 20.08.2024. Since the assessee did not comply to this notice and did not furnish any explanation in reply to the above notice Ld. CIT, Exemption was of the opinion that the provisions of section 12AB(1)(b)(i) of the IT Act are not fulfilled. Accordingly, the application filed by the assessee was rejected and the provisional approval granted on 26.11.2021 u/s 12AB r.w.s. 12A(1)(ac)(vi) of the IT Act was also cancelled. It is this order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT, Exemption, Pune is not justified. It was submitted by the counsel of the assessee that

proper opportunity was not provided by Ld. CIT, Exemption, Pune to submit the details/information, as the assessee is keen to ensure complete compliance as required by the Ld. CIT, Exemption, Pune. However, it was fairly admitted by Ld. Counsel of the assessee that the office bearer of the assessee company missed the last notice issued by Ld. CIT, Exemption, Pune, & due to this reason the compliance in response to the same could not be made. Accordingly, it was requested before the Bench to set-aside the order passed by Ld. CIT, Exemption, Pune and to provide one opportunity of hearing to the assessee to submit the desired information before Ld. CIT, Exemption, Pune.

6. Ld. DR appearing from the side of the Revenue relied on the order passed by Ld. CIT, Exemption, Pune and requested to confirm the same.

7. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that consistently the Co-ordinate Bench of the Tribunal in various cases including the recent decision of this Tribunal in the case of Sovo Foundation vs. CIT (Exemption), Pune vide ITA Nos.2133 & 2134/PUN/2024 order dated 09.12.2024 has remanded the matter involving the

issue of 12AB registration back to the file of Ld. CIT, Exemption to decide the issue afresh since the application was decided *ex-parte* i.e. for want of prosecution. Accordingly, in the instant case also we deem it appropriate to set-aside the order passed by Ld. CIT, Exemption, Pune and remand the matter back to him with a direction to decide the issue afresh and as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT, Exemption, Pune in this regard and produce requisite documents/evidences in support of grounds of appeal without taking any adjournment under any pretext, otherwise Ld. CIT, Exemption, Pune shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee in this appeal are partly allowed.

8. In the result, the appeal filed by the assessee in ITA No.1944//PUN/2024 is allowed for statistical purposes.

ITA No.1943/PUN/2024 :

9. The instant appeal is against the order passed by Ld. CIT, Exemption, Pune denying grant of approval u/s 80G(5) of the Act. Since we have remanded the issue of grant of registration u/s

12A(1)(ac)(iii) to the file of Ld. CIT, Exemption, Pune for *de novo* adjudication, therefore, in the interest of justice, it would be appropriate to remit the issue of grant of approval u/s 80G(5) as well to the file of Ld. CIT, Exemption, Pune being consequential, for *de novo* adjudication.

10. In the result, the appeal filed by the assessee in ITA No.1943/PUN/2024 is allowed for statistical purposes.

11. To sum up, both the above captioned appeals filed by the assessee are allowed for statistical purpose.

Order pronounced on this 20th day of December, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 20th December, 2024.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT, Exemption, Pune.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.