

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.1072 & 1073/PUN/2024

Avileen Education Foundation, Flat No.1204, Building F, Pristine Profile, Near Sayaji Hotel, Wakad, Pune- 411057. PAN : AAQCA2880F	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri Amol Khairnar

Date of hearing : 17.12.2024  
Date of pronouncement : 23.12.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

Both the above captioned appeals filed by the assessee are directed against the separate orders dated 16.03.2024 and 23.03.2024 passed by Ld. CIT, Exemption, Pune 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 27.09.2023 and rejecting the application for registration in

Form No.10AB under clause (iii) of section 12A(1)(ac) of the IT Act filed on 27.09.2023 respectively.

**ITA No.1073/PUN/2024 :**

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

*“1. On the facts and in the circumstances in the case and in law, Learned CIT (Exemption) have erred in not granting the registration u/s 12AB of IT Act 1961, by rejecting the application filed in form 10AB, and by cancelling the provisional registration granted on 25-05-2021 u/s 12AB r.w.s. 12A(1)(ac)(vi) of the IT Act 1961. Appellant states that it is entitled for such registration and prays accordingly.*

*Your appellant prays for deletion of entire addition. Your appellant craves for to add, alter, amend, modify, delete any or all grounds of appeal before or during the course of hearing.”*

3. Facts of the case, in brief, are that the assessee is a company registered under the provisions of the Companies Act, 2013 with an object to working towards education and betterment of the kids. The foundation runs educational cafes at multiple locations wherein kids can walk in the cafes and study using the resources and using the free app access for standards 6<sup>th</sup> to 10<sup>th</sup>. It is stated that the core objective of the foundation is to make entire India 10<sup>th</sup> pass. 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 institution as are material for the purpose

of achieving its objects, a notice was issued by Ld. CIT, Exemption, Pune through ITBA portal on 05.12.2023 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 by notice dated 20.02.2024. The assessee did not furnish any written submission except re-submission of three documents already furnished by him. The assessee was again requested to furnish a detailed note with branch wise details of participating children along with other related details. Since the assessee has not complied to this notice, Ld. CIT, Exemption, Pune was not satisfied about the charitable nature and genuineness of the activities of the assessee and compliance to requirement of any other law for the time being in force by the institution as are material for the purpose of achieving its objects and therefore rejected the application filed by the assessee and also cancelled the provisional registration granted on 31.05.2021 u/s 12AB r.w.s.

12A(1)(ac)(vi) of the IT Act. 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 Ld. counsel of the assessee that detailed submission along with evidence was furnished before Ld. CIT, Exemption, Pune but the same was not considered by him and accordingly it was submitted before the Bench that if Ld. CIT, Exemption, Pune was not satisfied with the submissions he could have provided one more opportunity to make the compliance but no such opportunity was provided by him. Accordingly, it was requested before the Bench to set-aside the order passed by Ld. CIT, Exemption, Pune and further requested 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 Benches 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 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 specific documents/evidences desired by Ld. CIT, Exemption, Pune in support of application for registration 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.1073//PUN/2024 is allowed for statistical purposes.

**ITA No.1072/PUN/2024 :**

9. The instant appeal is filed against the order passed by Ld. CIT, Exemption, Pune, rejecting the application for grant of approval u/s 80G(5) of the Act, at the request of the assessee for withdrawal of the above application. Since Ld. counsel of the assessee admitted before us that the application was withdrawn by the assessee due to some incorrect understanding of the CBDT Circular & therefore it was requested to restore the matter before Ld. CIT, Exemption, Pune, for reconsideration of the application for approval u/s 80G(5) of the IT Act. Under the above facts of the case & also in the light of the fact that, we have already 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, 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. Accordingly we remand the matter back to him with a direction to decide the issue afresh as per fact and

law by treating the application as not withdrawn after providing reasonable opportunity of hearing to the assessee.

10. In the result, the appeal filed by the assessee in ITA No.1072/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 23<sup>rd</sup> day of December, 2024.

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

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> 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.