

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 492/Ind/2023
Assessment Year: 2023-24

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| Forest Guardian Charitable Trust, Ward No. 01, Haryana Dall Mill Compound, Kamta Tola, Satna | <u>बनाम/</u> Vs. | Commissioner of Income-tax (Exemption), Bhopal |
| (Assessee/Appellant) | | (Revenue/Respondent) |
| PAN: AAATF9057G | | |
| Assessee by | Shri Regan Kapoor, CA | |
| Revenue by | Ms. Ila Parmar, CIT DR | |
| Date of Hearing | 05.12.2024 | |
| Date of Pronouncement | 10.01.2025 | |

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order dated 25.07.2023 passed by learned Commissioner of Income-Tax (Exemption), Bhopal ["CIT(E)"] by which the assessee's application for grant of registration u/s 12AB of Income-tax Act, 1961 has been rejected, the assessee has filed this appeal on following grounds:

"1. Because, the impugned order dated 25.07.2023 passed by the Ld. CIT-Exemption rejecting application filed by the Assessee-Appellant in Form 10AB

for registration u/s 12AB of the Income-tax Act, 1961 is perverse and bad in law.

2. Because, the Ld. CIT-Exemption erred in not appreciating that the Appellant-Trust was came in existence on 04.05.2022 and was not required to get accounts audited for earlier assessment years.

3. Because, the Ld. CIT-Exemption erred in applying Rule 17A(2)(g) of the Income-tax Act, 1962 as applicant-trust was only came into existence during AY 2023-23."

2. Although the revenue/respondent has submitted an application seeking adjournment of hearing on the ground that the assessee has filed paper-book only one day before, yet at the time of hearing Ld. DR representing revenue agreed to make submissions and consented to proceed in the matter. Accordingly, the case is heard.

3. The registry has informed that the present appeal is delayed by 68 days and therefore time-barred. Ld. AR for assessee/appellant submitted that the assessee is a charitable trust and Shri Vinay Goel, the office bearer/authorized representative of assessee has filed an application for condonation of delay supported by an affidavit on stamp. On perusal of the application/affidavit, we observe that the averments therein state that after receiving impugned order, the assessee-trust was in the process of filing present appeal but unfortunately father of Shri Vinay Goel was diagnosed with severe heart related issues resulting into heart surgery. Medical reports and prescriptions slips of doctors are filed on record to show this. Ld. AR very humbly submitted that there is no deliberate lethargy, negligence, mala fide intention or ulterior motive of assessee in making delay and the assessee does not stand to derive any benefit because of delay. He further

submitted that the sole reason of delay is the illness of father of Shri Vinay Goel, office bearer-cum/authorized representative-cum-deponent of affidavit. He also submitted that the case of assessee is meritorious as well. Therefore, the delay must be condoned. Ld. DR for Revenue left the matter to the wisdom of Bench without raising any objection. We have considered the explanation advanced by assessee and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in **Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Thus, taking into account the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view, condone delay, admit appeal and proceed with hearing.

4. Ld. AR next carried us to the documents held in Paper-Book including the impugned order passed by CIT(E) and submitted that the assessee filed application dated 18.02.2023 in Form No. 10AB to CIT(E) for grant of registration u/s 12AB. The CIT(E) issued certain notices to assessee which the assessee attended and filed replies. However, the CIT(E) has considered assessee's replies as incomplete, more particularly the CIT(E) has observed

that the assessee did not submit audit reports for last three years in terms of Rule 17A(2)(g) of Income-tax Rules, 1962 whereas the correct position is such that the assessee came into existence on 04.05.2022. Ld. AR submitted that the rejection of assessee's application by CIT(E) is not proper and therefore the CIT(E) must be directed to grant registration to assessee as applied for.

5. Ld. DR for revenue submitted that the CIT(E) has categorically noted that the assessee-trust must be working since long time for the reason that students' list for Batch 2021 was given. He further submitted that in any case, the CIT(E) has considered assessee's submission as incomplete. Therefore, it would be most appropriate in present case to restore matter at the level of CIT(E) with a direction to assessee to submit full and complete details for consideration of CIT(E).

6. We have considered rival submissions of both sides. After a careful consideration, we find merit in the submission of Ld. DR for revenue. We find that the CIT(E) has considered the submissions made by assessee as incomplete. Further, the CIT(E) has also noted that the assessee submitted a list of students for "Batch 2021" whereas the assessee is claiming that it came into existence on 04.05.2022. Therefore, in the situation, it is most appropriate, as suggested by Ld. DR, to restore matter at the level of CIT(E) for adjudication afresh after giving one more opportunity to assessee. Accordingly, we remit this matter back to CIT(E). We also direct the assessee to make a complete submission to the queries of CIT(E) with supporting

documents so as to enable the CIT(E) to take a proper decision in accordance with law. Ordered accordingly.

7. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced by putting on notice board in terms of Rule 34 of ITAT,
Rules 1963 on 10/01/2025

Sd/-

(TR SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 10/01/2025

CPU/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore