

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.206/Nag./2024
(Assessment Year : N.A.)

Bhartiya Sadvichar Prasarak Mandal
C/o Advocate Shri Divakar Gane
Balaji Ward, Chandrapur 442 402
PAN – AACTB0828P

..... Appellant

v/s

Commissioner of Income Tax
Exemption, Pune

..... Respondent

Assessee by : Shri Mahavir Atal
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 30/01/2025

Date of Order – 17/02/2025

ORDER

PER K.M. ROY, A.M.

The captioned appeal by the assessee is emanating from the impugned order dated 30/09/2022, passed by the learned Commissioner of Income Tax (Exemption), Pune, [*learned CIT(E)*].

2. In its appeal, the assessee has raised following grounds:-

"1. Whether on the facts and circumstances of the case, learned CIT-Exemptions, Pune, was justified in rejecting the application of the appellant for registration under section 12AB.

2. The appellant craves leave to add or alter any other ground that may be taken at the time of hearing of this case."

3. Delay of 486 days is hereby condoned in view of the averments made in the Affidavit reproduced below:-

"1. That I am the authorised signatory of Bhartiya Sadvichar Prasarak Mandal, Chandrapur.

2. Further that the trust, Bhartiya Sadvichar Prasarak Mandal, Chandrapur filed application no. CIT EXEMPTION, PUNE/2022-23/12AA/11447 in Form No. 10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 on 31/03/2022.

3. Further that an order (rejection order) rejecting the application as mentioned in point no. 2 was passed on 30/09/2022.

4. Further that the order was not served to the assessee physically. Neither the assessee received any mails or texts intimating for the same.

5. Further that on 31st day of January 2024, I saw a text message from the income tax department on my mobile phone intimating about some other income tax proceeding.

6. Further that it was only after the receipt of that message that I logged into the income tax e-filing portal myself and saw that a rejection order was passed against the trust.

7. The assessee has acted in good faith and hence there is no malafide intention to act in defiance of any law.

Sd/-
Déponent"

4. There is no mala fide intention as is apparent. Hence after condoning the delay, we proceed for adjudication on merits.

5. It is deemed fit to extract below the impugned order dated 30/09/2022, for rejection.

"Annexure (mentioned in row-9 above)

The assessee has filed application No.CIT EXEMPTION, PUNE/2022-23/12AA/11447 in Form No.10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 on 31/03/2022.

2. The application was carefully perused and considered along with its annexures. With a view to verify the genuineness of activities of the assessee, a notice was issued through ITBA portal on 25/07/2022 requesting it to upload certain other information / clarification viz. date of commencement of activity, date of expiry of provisional registration, details of any other Law applicable for achievement of objectives and the proof of compliance of said Law, proof of identity of main trustees /directors, year-wise list of donations received, note on activities carried out, list of donors, note on activities carried in the last 3 years or since inception, whichever is later along with supporting

credible evidence, details of business undertakings etc.. The assessee was requested to submit compliance by 09/08/2022. The notice was duly served on the assessee through e-portal/ email.

3. Since, the assessee did not respond to the said notice, another opportunity was given to the assessee vide notice dated 12/09/2022 requesting to submit compliance by 19/09/2022. The said notice was also duly served on the assessee through e-portal / email. However, the assessee did not respond to the above notices.

4. The assessee has not responded to any of the notices. Thus, the assessee has failed to furnish the details called for under the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 to verify the genuineness of activities of the trust /institution and to verify the compliance to requirements of any other law for the time being in force by the trust / institution as are material for the purpose of achieving its objects.

4.1 The information called for is basic information required to ascertain the overall nature of the activities of the assessee and are directly relevant to the present proceedings. The information was called for under the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961. However, the assessee has failed to submit such details / information despite giving sufficient opportunities as discussed above. In absence of the compliance to the above requirement, it is not possible to arrive at any conclusion about the genuineness of activities of the assessee and the compliance to the requirements of any other law for the time being in force by the trust/institution as are material for the purpose of achieving its objects.

4.2 With a view to verify the existence of the trust / institution, the initial notice in this case was also sent through post at the address mentioned by the assessee in the application in Form No.10AB. However, the said notice was returned back by the postal authorities unserved. Thus, the very existence of the institution / trust is in doubt.

4.3 It is clear that the assessee was given sufficient opportunities to comply, but it has not responded to the same. It seems that the assessee is not having any supporting documents / evidence to submit. The assessee has failed to comply with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 and hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee and has left no alternative but to reject the application.

5. In view of the above, the application filed by the assessee is hereby rejected.”

6. The learned Authorised Representative for the assessee prayed that the matter be set aside for reconsideration. But he failed to bring any single document or evidence as required in the notes. So, we are kept at dark about

the antecedents of the application. Further, it is incomprehensible that the Trust is not having any provisional registration and the application is rejected at the very onset. Any way, we understand that these small Trusts are in transition phase of faceless registration regime and in the fitness of things, they may be given one more opportunity to represent before the learned CIT(E). Accordingly, we set aside the impugned order passed by the learned CIT(E) and remit back the matter to his file for denovo adjudication on merits after providing reasonable opportunity of being heard to the assessee. Thus, all the grounds are allowed for statistical purposes.

7. In the result, appeal by the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 17/02/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 17/02/2025

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur