

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH" PATNA
(VIRTUAL HEARING AT KOLKATA)

SHRI DUVVURU RL REDDY, VICE PRESIDENT
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 505/PAT/2024
Assessment Year: 2023-24

Karam Agrami Aman Aur Maitri Sanstan,

Karam Agrani Aman Aur Mai,
Clarettan House, Ranchi G.P.O.,
Ranchi Sadar, Ranchi - 834001
[PAN: AAFAK4919C]

..... **Appellant**

vs.

Commissioner of Income Tax (Exemptions), Patna,

C.R. Building, ITO I P Estate,
New Delhi, Delhi - 110002

..... **Respondent**

Appearances by:

Assessee represented by : Sh. P.K. Ray, Advocate

Department represented by : Sh. Ashok Kumar, CIT

Date of concluding the hearing : 11.02.2025

Date of pronouncing the order : 13.02.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, the ITAT Registry has informed that there is a delay of 83 days in filing the said appeal. The assessee has requested for condoning of the said delay as under:

"1. That an appeal has been preferred by the appellant before Hon'ble Income Tax Appellate Tribunal, Patna against the order of the Ld. Commissioner of Income Tax (Exemptions), Patna for rejection of Registration under Section 12AB(1)(b)(iii) of the Income Tax Act, 1961.

2. The said Order of the Ld. Commissioner of Income Tax (Exemptions), Patna was passed & received on the same date by mail. Therefore, the appeal should have been instituted within 60 days from receipt of such order i.e., on or before 04.05.2024.

3. But the appeal was filed on 19.07.2024 through speed post with a delay of more or less 76 days.

4. The reasons for such delay are submitted as under.

a) That the Appellant is an educational institution and its main object involves to impart education among children by running school only for the betterment of the society irrespective of any caste and creed. The Appellant society is registered, the school is affiliated, and the governing body & members of the Appellant associated with other charitable activities for commitment of development of the Society.

b) That the Appellant stays at Ranchi which is much away from Kolkata where the Office of the assigned present authorized advocate is situated.

c) That the Appellant, after discussion, has assigned fresh present authorized advocate to represent the matter before the Hon'ble Tribunal, Patna which is controlled by Kolkata Zone. Hence, the Appellant has taken some time to appoint its present authorized advocate.

d) As the election in the state is going on, the signing authority of the Appellant is preoccupied & out of town owing to his duty & responsibility.

e) All these have caused delay in filing the appeal in time.

The following are the details:

Particulars	Date	Delay
Order received through portal	02.03.2024	
Due date of filing appeal	04.05.2024	
The Appellant took back the file from the previous Authorized Representative after Lokshabha Election 2024	06.06.2024	32 days
Handover of the file present Authorized Advocate Representative in Kolkata	12.07.2024	36 days
Time taken for consultation with Authorized 19/07/2024 Advocate Representative and drafting	19.07.2024	8 days
Documents signature at chamber of the Authorized Advocate Representative	19.07.2024	
Signed documents received and filled before the ITAT, Patna through speed Post from Kolkata	19.07.2024	
Total delay		76 days

5. As there was no malafide intention and delay was only due to the aforementioned reasons. Due to such reasons only the appellant was prevented in filing of the appeal in time. Therefore, it is requested that as the delay is not intentional, the delay of more or less 76 days occurred in filing of appeal may kindly be condoned and appeal may kindly be admitted for rendering substantial justice.

Prayer:

In view of the above submissions, it is earnestly requested with humbleness that the delay occurred in filing of the appeal is unintentional and not out of any negligence. Therefore, the delay occurred may be considered for condonation on merits in order to meet substantial justice.

1.1 Considering the reasons mentioned in the said petition, the delay is hereby condoned and this appeal is admitted for adjudication.

2. The present appeal emanates from order dated 02.03.2024, passed by the Ld. Commissioner of Income Tax (Exemption), Patna, [hereafter 'the Ld. CIT(E)'], u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961 (hereafter 'the Act').

2.1 In this case, the assessee had filed an application in Form 10AB on 29.09.2023 for grant of regular registration. It is seen that the Ld. CIT(E) issued two notices for eliciting appropriate response from the assessee. Allegedly, no compliance was made to the said notices and thereafter, the Ld. CIT(E) proceeded to record as under:

"Accordingly, the provisional registration granted u/s 12(1)(ac)(vi) in Form 10AC dated 07.03.2023 with unique registration No. AAFK4919CE20221 for AY 2023-24 to 2025-26 is also cancelled."

3. Aggrieved with this action, the assessee is in appeal before the ITAT through the following grounds:

"1) That the impugned Order of the Ld. Commissioner of Income Tax (Exemptions), Patna is arbitrary, illegal, contrary to the material on records and in excess of his jurisdiction while issuing the Order.

2) That the Rejection of Registration u/s 12AB:

The Ld. Commissioner of Income Tax (Exemptions), Patna erred in law and fact having not to grant the benefit of permanent Registration u/s 12AB of the Income Tax Act, 1961 of the Institution without any prejudice, merely quoting in the order as:

"The applicant failed to prove the genuineness of its activities as claimed to have been carried out in accordance with the object of the Trust wholly for charitable or religious purposes within the meaning of section 11 read with section 2(15) of the IT Act 1961 Therefore, the application filed in Form 10AB for grant of regular registration under sub clause (iii) of clause (ac) of subsection (1) of section 12A is rejected."

Although, the Appellant complied necessary Rule 17A of Income Tax Rules, 1962 for application along with requisition documents for application except one requisition and also complied the section 12AB(1)(b)(i) time to time for registration under section 12A(1)(ac) (iii) of the Income Tax Act, 1961.

Therefore, your Appellant prays before the Hon'ble Members of the Appellate Tribunal for direction to grant the permanent Registration u/s 12AB of the Income Tax Act, 1961 against decision made by the Ld of Commissioner of Income Tax (Exemptions), Patna

The Appellant craves the leave of the Hon'ble Members of Income Tax Appellate Tribunal to urge further ground(s) at the time of hearing and to produce the documents in support of its argument, if required."

3.1 Before us, the Ld. AR filed a detailed paper book running into 207 pages with the certificate that all these documents were uploaded on the portal of the income tax authority for consideration by the Ld. CIT(E). The Ld. AR pointed out that in spite of considerable number of documents uploaded, the Ld. CIT(E) has not considered them and held the matter against the assessee. The Ld. AR pointed out that once the registration has been cancelled then the AO of the assessee is seized of the matter and would make certain allegedly unwarranted additions even though the assessee had complied before the Ld. CIT(E) and he should have considered the documents for granting registration.

3.2 The Ld. DR relied on the order of Ld. CIT(E).

4. We have carefully considered the submissions of Ld. AR/DR and also gone through the documents placed before us, in the shape of the impugned order and the paper book. It appears that for some reason, the Ld. CIT(E) was not able to access the documents filed by the assessee in response to the notice issued by him. In this case, clearly the benefit of doubt has to be given to the assessee with regard to the compliance made before the Ld. CIT(E). Accordingly, we remand this matter back to the file

of Ld. CIT(E) for considering the documents, which shall be again filed by the assessee, and thereafter passing a reasoned order. However, we deem it fit to direct that the Ld. CIT(E) must pass the necessary orders within 60 days of receipt of this order either through the Income Tax Department channels or even if the same is supplied to him by the assessee.

5. With these remarks, this appeal is allowed for statistical purposes.

Order pronounced in the court on 13.02.2025.

Sd/-

[Duvvuru RL Reddy]
Vice President

Sd/-

[Sanjay Awasthi]
Accountant Member

Dated: 13.02.2025

AK, PS

Copy of the order forwarded to:

1. Karam Agrami Aman Aur Maitri Sanstan
2. Commissioner of Income Tax (Exemptions), Patna
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches