

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
I.T.A. No. 6651 /Mum/2024
Assessment Year: 2025-26

Young Rathestars 604-B Laxmi Sadan Dr. Ambedkar Road Dadar Mumbai - 400014 [PAN: AAATY0738M]	Vs	CIT (Exemptions), Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Ms. Jasmin Amalasadvala (virtually present)
Revenue by :	Shri Dr. Kishor Dhule, CIT D/R

सुनवाई की तारीख/**Date of Hearing** : 19/02/2025
घोषणा की तारीख /**Date of Pronouncement**: 19/02/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order dated 25/10/2024 by which the Id. CIT(Exemptions) [hereinafter 'the Id. CIT(E)'], has rejected the application u/s 80G of the Act.

2. Briefly stated the facts of the case are that the assessee obtained provisional registration vide order dated 10/03/2022. The said provisional registration was from 10/03/2022 to AY 2024-25. As per the relevant provisions of the Act, renewal has to be made prior to the end of the AY till which it is valid. However, the assessee trust realised this late and filed application after the end of the relevant AY.

3. The Id. CIT(E) was of the opinion that the assessee has to file Form 10AB if the assessee has not claimed exemption in the previous year.

Since the assessee has claimed exemption in the previous year, the application u/s 80G of the Act was rejected.

4. We have given a thoughtful consideration to the order of the ld. CIT(E). On identical set of facts, the Co-ordinate Bench in the case of *Torna Rajgad Parisar Samajonnati Nyas vs. Commissioner of Income-tax (Exemptions)* - [2025] 170 taxmann.com 720 (Pune-Trib.), has held as under:-

“Facts of the case, in brief, are that the assessee is a trust applied for registration in Form ITEM(B) of the IT Act on 28.03.2024. With a view to verify the genuineness of the 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 l requesting the assessee to upload various information detailed in notice. In compliance to the above notice, desired information was furnished by the assessee trust. Ld. CIT, Exemption, Pune found that the of the IT Act and the assessee trust has claimed section 12A(1)(ac)(vi)(B) is not applicable in the assessee's case, accordingly the application filed by the assessee was rejected by him. It is this order against which the assessee is in appeal before this Tribunal.

3. Ld. AR appearing from the side of the assessee submitted before the Bench that the rejection order passed by Ld. CIT, Exemption, Pune is unjustified. It was submitted that due to a typographical/inadvertent error the application was filed u/s 12A(1)(ac)(vi)(B) assessee was required to file application u/s 12A(1)(ac)(iii) of the IT Act since it was an old trust of the IT Act and was required to get registration under the new . It was further submitted that application was filed by its own without the help of any tax professional and due to this the above mistake occurred. Ld. Counsel further submitted that the assessee trust is genuine and was already registered u/s 12A Accordingly, it was submitted before the Bench that Ld. CIT, Exemption, Pune ought to have allowed further opportunity to the assessee trust to furnish reply in this regard. But, Ld. CIT, Exemption, Pune erred in not providing reasonable opportunity to the assessee to submit the clarification in this regard. In support of the above contention, Ld. AR relied on the decision ordinate Bench of this Tribunal in the case of *Shree Swaminaray Gadi Trust vs. CIT*, [2024] 162 taxmann.com 772 (Surat-Trib.) order dated 13.05.2024 wherein under identical situation Tribunal was pleased to allow the appeal of the assessee. Ld. AR further relied on another decision of the Co-ordinate Bench of this Tribunal in the case of *Raj Krishan Jain Charitable Trust* in ITA No.1553/Del/2024 order dated 05.06.2024, wherein under similar circumstances, the Tribunal was pleased to allow the appeal of the assessee. Accordingly, Ld. AR requested before the Bench to set-aside the order passed by Ld. CIT, Exemption, Pune and further requested to direct him to consider the application as filed under clause (iii) of have heard Ld. Counsels from both the sides and perused the material available on record and also copy of case laws relied on by the assessee. We find that admittedly, the assessee trust was required to file

application under clause (iii) of section 12A(1)(ac) Act but due to inadvertent error the application was filed under clause (vi) of Section 12A(1)(ac) of the IT Act and for this reason alone Ld. CIT, Exemption, Pune rejected its application for registration. We find that under identical situations, a Co-ordinate Bench of this Tribunal in the case of Krishan Jain Charitable Trust (supra) allowed the appeal of the assessee by observing as under:-

"9. As contended the appellant has committed a technical mistake in making the application on 12A(1)(ac)(ii) instead of clause(iii) of clause (ac) of sub-section (1) of of the Act. As pointed out the appellant has filed revised form 10AB for seeking registration under the correct provision i.e. Section 12A(1)(ac)(iii) which can also be 10. In consonance with the decision rendered by the co-ordinate Bench, the typographical error deserves to be corrected. Accordingly, the appeal deserves to be allowed and impugned order dated 15.03.2024 of Ld. CIT (E) is liable to be set aside. Hence, the appeal is allowed and we set aside the order of Ld. CIT(E) dated 15-03-2024 and remand the matter back to the file of the CIT(E) for fresh adjudication by considering amended application of the appellant under Section 12A(I)(ac)(iii) of the Act, or he can call for amended application from the appellant.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose."

6. Respectfully following the above decision passed by the Co- ordinate Bench of this Tribunal (supra), we find force in the arguments of Ld. Counsel of the assessee that Ld. CIT, Exemption, Pune erred in dismissing the application for registration merely on a technical ground and accordingly we deem it proper to set-aside the order passed by Ld. CIT, Exemption, Pune and direct him to treat the application already filed by the assessee as under clause (iii) of section 12A(1)(ac) of the IT Act instead of under clause (vi) of section 12A(1)(ac) of the IT Act and decide the same 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 supporting documents/evidences in support of application for registration, otherwise, Ld. CIT, Exemption, Pune shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal filed by the assessee are partly allowed.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes".

5. Respectfully following the decision of the Co-ordinate Bench (*supra*), we hold that the ld. CIT(E) was not justified in dismissing assessee's application for registration merely on a technical ground. Therefore, in the interest of justice, we restore this issue to the file of the ld. CIT(E) with a direction to decide the application after affording a reasonable and adequate opportunity of being heard to the assessee and the assessee is directed to produce necessary evidence/supporting documents in support of the application for registration.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 19th February, 2025 at Mumbai.

Sd/-

(SAKTIJIT DEY)
VICE-PRESIDENT

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 19/02/2025

Sd/-

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai