

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2884 & 2768/PUN/2024

Pune Branch of Association of Physicians of India, F/12 Lunawat Complex, 2 nd Floor, Opp. Kothrud Bus Stand, Pune-411038 PAN : AADTP3034C	Vs.	Income Tax Officer Exemption Ward-1(1), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Sachin P. Kumar
Department by :	Shri Ajay Kumar Keshari
Date of hearing :	20-02-2025
Date of Pronouncement :	25-02-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

Two appeals filed by the assessee are directed against the two separate order(s) dated 19.03.2024 and 16.07.2024 of the Ld. Commissioner of Income Tax (Exemption), Pune [**"CIT(E)"**] whereby he rejected the application of the assessee filed before him in Form No. 10AB u/s 12A(1)(ac)(iii) on 28.10.2023 and under section 80G(5)(iii) on 19.01.2024 of the Income Tax Act, 1961 (**the "Act"**). These were heard together and are being disposed of by this order.

2. Both the above appeal(s) have been filed with a delay of 209 days and 87 days respectively. The assessee has filed the application(s) for condonation of delay along with a sworn affidavit stating therein the reasons for delay in filing of the appeal. On perusal of the same, we are

satisfied that the delay in filing of appeal is not intentional or deliberate but has occurred for the reasons mentioned in the affidavit. After hearing both the sides, we are of the view that the delay is attributable to the sufficient cause. We, therefore condone the delay and proceed to decide the appeal.

ITA No. 2884/PUN/2024

3. The assessee has raised the following grounds of appeal :-

- “1. That, on the facts and in the circumstances of the case, the order of Ld. Commissioner of Income Tax (Exemption), Pune cancelling the provisional approval granted u/s 12AB r.w.s. 12A(1)(ac)(vi) is arbitrary, erroneous, contrary to provisions of the IT Act, and is opposed to the principles of natural justice, equity and fair play.
2. That, on the facts and in the circumstances of the case, the order of the Ld. CIT (Exemption), Pune rejecting the application made by the appellant trust in Form 10AB u/s 12(1)(ac)(iii) is arbitrary, erroneous, contrary to the provisions of the Act, and is opposed to principles of natural justice, equity and fair play.
3. That, on the facts and in the circumstances of the case, the Ld. CIT (Exemption) has grossly erred in cancelling the provisional registration granted u/s 12AB r.w.s. 12A(1)(ac)(vi) without granting proper opportunity of being heard and thus violating the principles of "audi alteram partem".
4. That, on the facts and in the circumstances of the case, the Ld. CIT (Exemption) has grossly erred in rejecting the application made in Form 10AB under clause (iii) of section 12A(1)(ac) of the IT Act without granting proper opportunity of being heard.
5. That, on the facts and in the circumstances of the case, the Ld. CIT (E) has grossly erred by recording his non satisfaction in respect of charitable nature and genuineness of activities of the appellant trust, without bringing any cogent material on record to prove the same.
6. That, the appellant prays to be allowed to add, amend, modify, rectify, delete and raise any ground of appeal at the time of hearing.
7. That, the aforesaid grounds of appeal are without prejudice to each other.
8. Any other order in the interest of justice may kindly be passed.”

4. Briefly stated, the facts of the case are that on perusal of the assessee's application for registration along with annexures thereto, with a view to verify the genuineness of activities of the assessee trust and 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, the Ld. CIT(E) issued a notice through ITBA portal on 11.01.2024, which was duly served via e-portal and email, requesting the assessee to upload certain information/clarification by 25.01.2024. The assessee failed to respond. Therefore, another notice was issued on 20.02.2024 asking the assessee to show cause as to why the application for regular registration should not be rejected and why the provisional registration granted to the assessee should not be cancelled. The compliance to the said show cause notice was due by 27.02.2024. The notice was duly served upon the assessee through e-portal and email and the compliance was sought by 04.03.2024. However, the assessee neither furnished its compliance nor availed the opportunity of hearing granted by the Ld. CIT(E). In the absence of any information / details furnished by the assessee, the Ld. CIT(E) observed that he is unable to draw any satisfactory conclusion about the genuineness of the activities of the assessee trust and the compliance of requirements of any other law for the time being in force by the assessee as are material for the purpose of achieving its objects. In this view of the matter, it seemed to the Ld. CIT(E) that the assessee is not having any supporting documents/ evidence to submit. He, therefore, by this impugned order rejected the application for registration filed by the assessee and also cancelled the provisional registration granted on 14.11.2023 u/s 12AB r.w.s. 12A(1)(ac)(vi) of the Act.

4. Aggrieved, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

5. The Ld. AR submitted that the non-compliance of notice(s) issued by the Ld. CIT(E) was not intentional but has happened due to lack of proper professional guidance. The assessee was not provided with adequate opportunity of hearing by the Ld. CIT(E). The Ld. AR submitted that assessee has a strong case on merits of registration and given an opportunity, the assessee is in a position to substantiate its case before the Ld. CIT(E) by filing the relevant details / documents as called upon by him. The Ld. AR therefore prayed that the matter be set aside to Ld. CIT(E) for fresh consideration of assessee's application for registration.

6. The Ld. DR had no objection to the above request of the Ld. AR.

7. We have heard the Ld. Representatives of the parties and perused the material available on record. We observe that the Ld. CIT(E) has rejected the application of the assessee for want of any details/ information submitted by the assessee in response to two notices issued by him. Before us, the Ld. AR has pleaded for one more opportunity to explain its case before the Ld. CIT(E). Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the matter to the file of the Ld. CIT(E) with a direction to grant one final opportunity to the assessee to substantiate its case before him by filing the requisite details / information/ documents as called for by the Ld. CIT(E) and decide the issue afresh as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to make its submissions before the Ld. CIT(E) on the appointed date without seeking

any adjournment under any pretext, failing which the Ld. CIT(E) shall be at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal of assessee is treated as allowed for statistical purposes.

ITA No. 2768/PUN/2024 :

9. The assessee has raised the following grounds of appeal :-

- “1. *That, on the facts and in the circumstances of the case, the order of Ld. Commissioner of Income Tax (Exemption), Pune cancelling the provisional registration granted under sub clause (A) of clause (iv) for first proviso to section 80G (5) of the IT Act is arbitrary, erroneous, contrary to provisions of the IT Act, and is opposed to the principles of natural justice, equity and fair play.*
2. *That, on the facts and in the circumstances of the case, the order of Ld. CIT (Exemption), Pune rejecting the application made by the assessee in Form 10AB under clause (iii) of the first proviso to sub-section (5) of section 80G of the IT Act arbitrary, erroneous, contrary to the provisions of the Act, and is opposed to principles of natural justice, equity and fair play.*
3. *That, on the facts and in the circumstances of the case, the Ld. CIT (Exemption) has grossly erred in cancelling the provisional registration granted sub clause (A) of clause (iv) for first proviso to section 80G (5) of the IT Act without granting proper opportunity of being heard and thus violating the principles of "audi alteram partem".*
4. *That, on the facts and in the circumstances of the case, the Ld. CIT (Exemption) has grossly erred in rejecting the application made in Form 10AB under clause (iii) of the first proviso to sub-section (5) of section 80G of the IT Act without granting proper opportunity of being heard.*
5. *That, on the facts and in the circumstances of the case, the Ld. CIT (Exemption) has erred in rejecting the application made in Form 10AB under clause (iii) of the first proviso to sub-section (5) of Section 80G of the IT Act without perusing the submissions made in detail by the appellant trust during the proceedings.*
6. *That, on the facts and in the circumstances of the case, the Ld. CIT (Exemption) has grossly erred by recording his non satisfaction in*

respect of charitable nature and genuineness of activities of the appellant trust, without bringing any cogent material on record to prove the same.

7. *The appellant prays to be allowed to add, amend, modify, rectify, delete and raise any ground of appeal at the time of hearing.*
8. *That, the aforesaid grounds of appeal are without prejudice to each other.*
9. *Any other order in the interest of justice may kindly be passed.”*

10. We have remanded the issue of grant of regular registration under section 12A of the Act in ITA No. 2884/PUN/2024 above to the file of Ld. CIT(E) for fresh consideration and adjudication. Therefore, in the interest of justice, it would be appropriate to remit the issue of grant of approval under section 80G(5) of the Act raised by the assessee in the present appeal also to the file of the Ld. CIT(E), being consequential, for denovo consideration and adjudication. The Ld. CIT(E) shall decide the issue in accordance with facts and law after providing due opportunity of being heard to the assessee. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

11. In the result, the appeal of assessee is treated as allowed for statistical purposes.

12. To sum up, both the appeals of the assessee in ITA No.2884/PUN/2024 and ITA No.2768/PUN/2024 are treated as allowed for statistical purposes.

Order pronounced in the open court on 25th February, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 25th February, 2025.

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune