

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "जी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री प्रदीप कुमार केडिया, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
आअसं.3116/दिल्ली/2024(नि.व. 2024-25)  
ITA No. 3116/DEL/2024 (A.Y.2024-25)

Shri Swami Samarth Educational And  
Charitable Trust,  
VPO Ladrawan, Tehsil Bahdurgarh,  
District Jhajjar, Haryana 124507  
PAN: AAZTS-1288-F  
बनाम Vs.

..... अपीलार्थी/Appellant

Commissioner of Income Tax (Exemption)  
C R Building, Himalya Marg, Sector 17-E,  
Chandigarh 160017

..... प्रतिवादी/Respondent

Assessee by : Shri Navin Gupta, Advocate  
Department by : Ms. Jaya Chaudhary, CIT(DR)

सुनवाई की तिथि/ Date of hearing : 24/03/2025

घोषणा की तिथि/ Date of pronouncement: : 24/03/2025

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against an ex-parte order of Commissioner of Income Tax (Exemptions), Chandigarh (hereinafter referred to as 'the CIT(E)') dated 24.02.2023, whereby application of the assessee for grant of registration u/s. 12A of the Income Tax Act,1961(hereinafter referred to as 'the Act') was rejected.

2. This appeal is time barred by 429 days. The assessee has filed an application supported by an affidavit citing reasons for delay in filing of appeal. The Id. Counsel for the assessee submitted that the notices issued by the CIT(E) and the impugned order passed by the CIT(E) were never served on the assessee. Hence,

the assessee could neither respond to the notice issued by the CIT(E) nor could file appeal in time. After perusal of the affidavit, we are satisfied that delay in filing of appeal is not deliberate and has been caused due to reasons explained in the affidavit which appears to be bonafide.

3. The Hon'ble Apex Court in an unequivocal manner has repeatedly held that acceptance of reasons given by the appellant/petitioner explaining delay should be the rule and refusal an exception. By taking a pedantic and hyper technical view the explanation furnished should not be rejected, causing loss and irreparable injury to the party against whom the lis terminates. The expression "sufficient cause" should be liberally construed so as to sub-serve the ends of justice.

3.1 The Hon'ble Apex Court in the case of *Collector Land Acquisition vs. Mst. Katiji & Ors. 167 ITR 471* has held that liberal approach should be adopted while dealing with an application praying for condonation of delay. Refusing to condone delay can result in meritorious matter being thrown out at the very threshold and cause of justice being defeated. Pedantic and hyper technical approach should not be adopted while dealing with an application for condonation of delay.

3.2 The Hon'ble Apex Court in the case of *Ram Nath Sao @ Ram Nath Sahu & Others vs Gobardhan Sao and Others* has held that the expression "sufficient cause" within the meaning of Section 5 of the Limitation Act or Order 22 Rule 9 of Civil Procedure Code or any other similar provision should receive a liberal construction so as to advance substantial justice. The courts should not proceed with the tendency of finding fault with cause shown and reject the petition by a slipshod order in over jubilation of disposal derive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no

negligence or inaction or want of *bonafide* can be imputed to the defaulting party. Thus, the delay in filing of appeal is condoned and appeal is admitted for hearing on merits.

4. The Id. Counsel submits that the CIT(E) in ex-parte proceedings has rejected assessee's application for grant of registration u/s. 12A of the Act. He prayed for an opportunity to appear before the CIT(E) and explain the case.

5. Per contra, Ms. Jaya Chaudhary, representing the department vehemently defended the impugned order and submitted that opportunity was granted by the CIT(E) to the assessee, the assessee failed to respond to notice issued by the CIT(E).

6. Both sides heard. The CIT(E) in ex-parte proceedings has rejected assessee's application for grant of registration u/s. 12A of the Act. A perusal of impugned order shows that ostensible the CIT(E) had issued notices/questionnaire to the applicant/assessee on 10.11.2022, 14.12.2022 and 30.12.2022. The mode of service of said notices is not emanating from the impugned order. Nor it is evident whether the said notices were served on the assessee/applicant. Taking into consideration entire facts of the case and in the interest of justice, we deem it appropriate to restore this matter back to the CIT(E) for *denovo* consideration of assessee's application for grant of registration u/s. 12A of the Act. The assessee upon service of notice by the CIT(E) shall respond to the same, without fail and furnish the requisite details/documents.

7. The CIT(E) after affording reasonable opportunity of hearing to the assessee shall decide the application of the assessee for registration u/s. 12A of the Act, in accordance with law.

8. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Monday the 24<sup>th</sup> day of March, 2025.

Sd/-

(PRADIP KUMAR KEDIA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 24/03/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI