

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.118/RPR/2025
निर्धारण वर्ष / Assessment Year : 2024-25

Shri Sudharm Jain Sewa Sadhna Kendra
Evam Sikshan Sansthan
Shantipara, Near Bus Stand,
Sambalpur, Kanker-494 435
PAN: AASTS6803K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax (Exemption)
Bhopal.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rajesh Golechha, CA
Revenue by : Shri S.L Anuragi, CIT-DR

सुनवाई की तारीख / Date of Hearing : 01.04.2025

घोषणा की तारीख / Date of Pronouncement : 02.04.2025

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of the Ld.CIT(Exemption), Bhopal dated 23.09.2024 rejecting the application of assessee filed in Form 10AB for granting registration u/s.12AB and consequent exemption u/s.80G(5) of the Act as per the grounds of appeal on record.

2. At the very outset, Ld. Counsel for the assessee submitted that the present appeal is time barred by 93 days. In this regard, the Ld. Counsel had filed a condonation application a/w. affidavit, dated 03.03.2025 on record. Explaining the reasons leading to the delay, it was submitted by the Ld. Counsel that the assessee works in remote area where all the trustees, founding members and office bearers of the assessee trust are not aware about the income tax procedures and are ignorant of the periphery of the taxation laws which resulted to the impugned delay and the same is not deliberate or malafide on the part of the assessee trust. In this background, we have examined the contents of the condonation application and find that the reasons for delay cannot be attributed to any malafide or deliberate conduct of the assessee, if any. That as per the direction of the Hon'ble Supreme Court the delay which is beyond 365 days will be termed as inordinate delay and anything below that is ordinate

delay. However, the law of limitation is to be construed strictly and whether it is ordinate or inordinate, delay has to be well explained. At the same time in these issues a liberal and judicious approach must be adopted also.

3. Ld. CIT-DR contested the contents of the condonation application a/w. "affidavit" and raised objection, however failed to show any deliberate or malafide conduct, if any on part of the assessee for such delay.

4. After hearing both the parties, we are of the considered view that as per the affidavit, the genuineness of the difficulties faced by the assessee trust for not having adequate technical support has been brought on record and also there is no evidence placed on record by the Ld. CIT-DR regarding any deliberate or malafide conduct of the assessee as regards the delay involved in filing of the present appeal before the Tribunal. Therefore the delay caused was absolutely circumstantial beyond any direct control of the bonafide assessee. The **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025**, had observed that a justice oriented and liberal approach ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. Also, the Hon'ble High Court of Chhattisgarh in the case of **Jagdish Prasad Singhania Vs.**

Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025, after relying on the judgment of the Hon'ble Supreme Court in the case of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur (supra) had held that a justice oriented and liberal approach be adopted while considering the application filed by the assessee for condonation of delay. Accordingly, the delay of 93 days involved in the present appeal is condoned.

5. The relevant facts are that the assessee had applied in Form 10AB for registration u/s.12AB and 80G(5) of the Act as per the new provisions of the Act. The assessee had made submission in response to the notices issued by the office of the Ld. CIT(Exemption) and on perusal of the documents submitted by the assessee, it was found by the Ld. CIT(Exemption) that the assessee had already claimed exemption in ITR filed for earlier years. In this regard it was observed and held by the Ld. CIT(Exemption) as follows:

“4-It is clear that Item-(B) of clause-(iv) of first proviso to Section 80G(5) of the Act & Item-(B) of Section 12A(1)(ac) (vi) are applicable only for those assessee whose activities are commenced and no exemption u/s.11/12 or 10(23C)(iv)(v)/(vi)(via) has ever been claimed before filling of application in Form 10AB. However, on perusal submissions made by the assessee and data available on record, it is noticed that the assessee has already claimed aforesaid exemption in its ITR for earlier years (A.Y.2021-22, 2022-23, 2023-24) before filling the present application. Hence, the assessee is not eligible to file application under Item-(B) of clause- (iv) of first proviso to section 80G(5) of the Act & section Item-(B) of section 12A(1)(ac)(vi) of the Act.

5--Considering the facts of the case and reasons mentioned above and compulsory provisions of the Act, the applications of the assessee filed in Form 10AB for grant of registration u/s 12A(1)(ac)(vi)-ITEM-B and 80G(5)(iv)-ITEM-B of the Act are hereby rejected and the provisional registration issued Form 10AC by the CPC are hereby cancelled.”

6. That as clearly evidenced from the aforesaid observations, the Ld. CIT(Exemption) had denied the registration and exemption for the fact that as per ITR for A.Y.2021-22, 2022-23 and 2023-24, the assessee had already claimed exemption before filing the present application. Thereafter, the Ld. CIT(Exemption) notes that “*Note : Due to above technical discrepancies, the case has not been decided on merits*”. There is no discussion by the Ld. CIT(Exemption) regarding the merits of the application filed by the assessee in terms with Section 12AB and Section 80G(5) of the Act.

7. We have heard the parties herein, analyzed the facts and circumstances. In this case, the application for registration u/s. 12AB and Section 80G(5) of the Act was rejected by the department holding that the assessee in its return for the earlier years had already claimed exemption before making the present application. There is no discussion on merits with regard to the satisfaction by the Ld. CIT(Exemption) regarding objects of the trust and genuineness of the activities of the trust, whether these conditions were fulfilled by the assessee, there are no findings given in the order. That further, if the Ld. CIT(Exemption) was in the intention of

adjudicating the matter as per facts that the assessee had already claimed exemption in the earlier years before making this present application then there needs to be given an opportunity to the assessee to explain these facts which are on record and whether they had actually claimed exemption earlier and if they had claimed then why they are applying for registration and exemption again. Without adjudicating anything on this aspect also the matter was dismissed by the Ld.CIT(Exemption). Therefore, the order of the Ld. CIT(Exemption) takes character of a cryptic, arbitrary and summary order. There are no reasons for which the decision was arrived at which could be reflected from the said order of the Ld. CIT(Exemption). Therefore, in our considered view, in all fairness and in the interest of natural justice, the matter has to be revisited by the Ld. CIT(Exemption) to pass an order on merits adjudicating each and every aspects while passing a speaking order. In view thereof, we set-aside the order of the Ld. CIT(Exemption) and remand the same back to his file as per our aforesaid directions. At the same time, it is ordered that this being the final opportunity, the assessee shall duly comply with the hearing notices from the Ld. CIT(Exemption).

8. As per the aforesaid terms, the grounds of appeal raised by the assessee stands allowed for statistical purposes.

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

Order pronounced in the open court on 2nd April, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 2nd April, 2025.

SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.