

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

I.T.A. Nos. 150 & 209/Asr/2024

Assessment Year: N.A.

Hemophilla Society of Kashmir
Sheikh Ulalam Colony Near Power
Station, Kawapara, Srinagar 190001
Jammu & Kashmir

Vs.

CIT (Exemptions),
Chandigarh

[PAN: AABAH 6907K]

(Appellant)

(Respondent)

Appellant by : Sh. Mohd. Iqbal Untoo, C. A.
Respondent by : Sh. Bharat Bhushan Garg, CIT-D. R.
Date of Hearing : 08.04.2025
Date of Pronouncement : 29.04.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT (Exemptions) Chandigarh dated 08.12.2023 passed u/s 12AB of the Act, rejecting the application for registration for non-compliance to notices issued.

2. **Condonation of delay:-** It is pointed out by the registry that the appeal is belated by 45 days. An affidavit is filed by the Secretary of the society Mr. Adil Ahmed Dar, that the last date of filing this appeal was 12th February, 2024, against order of Ld CIT(E) dated 08th December, 2023, (received on 14/12/2023), but the same could not be filed in time because of his illness suffering from “*hemophilla*” which is a disease which totally hinders mobility and movement during winter months and he himself is a patient of the said disease and it was not possible for any movement on his part specially in the cold weather of Kashmir valley. As such in absence of any willful neglect on his part he prays for condonation of delay of 45 days (forty five days) in filing this appeal and requests for admission of appeal to be decided on merits. The Ld. DR has no objection. Taking into consideration the medical limitations faced by the Secretary, we condone the delay and admit the appeal to be decided on merits.

3. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

- “1. *The Ld. CIT (E) has erred in rejecting the registration u/s 12AB of the Income Tax Act in an arbitrary manner.*
2. *The Ld. CIT (E) has erred in not giving a reasonable opportunity of being heard while rejecting the application made u/s 12A(1)(ac)(iii) of the Income Tax Act.*
3. *The reason for non-submission or for not making any request for adjournment was the inability of the members of the society to connect with their CA on the matter of registration. We request you to give us an opportunity to be heard because the*

reason for non-submission was not merely the result of being non vigilant as the Ld. CIT has mentioned in the point no. 4.2 of the order but the illness of the members of the society (more specifically the Finance Manager of the society). The illness of the members of the society have largely affected the functioning of the members as they themselves are suffering from this inherited bleeding disorder in which blood does not clot properly called HEMOPHILIA. Cold weather affects hemophilia patients very adversely and slight change in the conditions renders the patients immobile.

Studies in this Ref:

A study found that low pressure with advection of cold air can increase bleeding in hemophilia patients 1.

Another study showed that when the temperature of the wound was decreased to 16°C or below, bleeding increased significantly in all normal persons and in those with coagulation disorders 2.

Furthermore, Patients with bleeding disorders, including hemophilia, may experience an increase in nosebleeds during cold weather 3.

Since the concerned personnel who were to undertake the tedious process of registration were themselves suffering from this horrendous condition, were incapable of taking any action and were faced by multiple legal and administrative complexities such as making the affidavits available, matching cash book with bank statement, and/or getting in connection with their CA for any prudent and alternate action (say, Compliances).

4. *That regrettably, we would also like to point the fact that we did not receive any notices or communications at the address provided in FORM 10AB, through speed post as mentioned in point no. 3.2 and we also would like to humbly mention that if the honorable Department would have chosen some other medium to reach out to the assessee such as the phone no.(s) provided on the profile of the assessee, that would have brought the matter to the notice of the counsel of the assessee who could have taken some preventive action so as to avoid the delay.*

5. *Assessee craves right to add, alter or modify any grounds of appeal before or at the time of hearing of the appeal.”*
4. Brief facts emerging from records are that the assessee is a society registered under Society Registration Act – VI 1988 / ROS Kashmir), engaged in charitable activities, and provisionally registered u/s 12A(1)(ac)(vi) of the Act 61, vide order dated 31/05/2021. The application for final registration in form 10AB, u/s 12A(1)(ac)(iii) of the Act, has been rejected by the Ld CIT (E) Chandigarh, vide order dated 08/12/2023, due to non compliance on the part of the assessee and in absence of any response to notices issued on at least four separate occasions *through ITBA portal , through Speed Post , and also through the registered email id as given in Form 10AB. (as per details contained in page – 5 para 3.2 of CIT (E) order)*.
5. In absence of documentary evidences as per notice issued by the Ld CIT (E), it was not possible to verify and assess the genuineness of activities of the assessee society, leading to the rejection of the application.
6. The Ld AR of the assessee, filed a short paper book containing copies of memorandum of the Society, registration certificate issued under Society Registration Act, profile of activities carried out by the society for charitable purpose along with many photographs as proof of activities, copies of ITR filed, and copies of provisional registration granted under the Act 61, and submitted that notices of

hearing has never been received by the assessee because all has been issued in ITBA portal and the notice stated to be issued through speed post has not been received and there is a possibility that the same might have been sent at wrong address and as such no representation could be made by the assessee.

7. In the interest of justice he prays for one more opportunity of presenting all papers and necessary documents for proving his case ,in support of his application for registration and prays for remand of the case back to the Ld CIT (E), for fresh adjudication on merits .

8. The Ld DR relies on the order of the Ld CIT (E), but has no objection in case the matter is remanded.

9. We have heard the submissions and considered all materials on record. We find that in the instant case the Ld CIT (E) has issued notices on four different dates through all possible means as stipulated in section 282 of the Act 61 (*read with Rule 127 of IT Rules 62*). Apart from notices issued in ITBA Portal, the notice issued through speed post is stated by the assessee to have not been received (*without any specific reasons*).

10. Moreover, we find that the notice issued by the Ld CIT (E) dated 26th September, 2023, has been issued through *email address* given in the application for

registration in Form 10AB, and there cannot be any reason as to why this notice has not been complied.

11. As such we are of the opinion that in the instant case notice has been served as per procedure stipulated u/s 282 of the Act (*r.w.r. 127 of IT Rules*), and it is entirely the negligence of the assessee, in failing to make a representation or file a response, for which we deem fit and proper in this case to impose a token cost of *Rs. 5,000/- (Rs. Five thousand) payable to the Prime Ministers National Relief Fund, (evidence of deposit to be filed before the jurisdictional AO)*.

12. However, in the interest of justice we remand the matter back to the Ld CIT (E), for considering the application for registration afresh, on the merits of the case and the assessee is directed to file all necessary papers and documentary evidences as asked for in the notice issued by the office of the Ld CIT (E) , for proper disposal of the application on merits.

13. The assessee will be allowed reasonable opportunity of hearing.

14. We have not expressed any opinion on merits and all contentions are left open.

I.T.A. No. 209/ASR / 2024

15. Appeal filed by assessee against the rejection of application for approval u/s 80G(5)(iii), vide order dated 23/09/2022.

16. **Condonation of Delay:** Affidavit filed praying for condonation of delay of 63 days. Considering the reasons we condone the delay and admit the appeal for decision on merits.

17. **Merits of the case:** Since we have already remanded the application for registration u/s 12A back to the Ld CIT(E) for fresh adjudication, *in ITA No. 150/ASR/2024*, our observation applies *mutatis mutandis* to the facts of this appeal as well.

18. In the result, this appeal against the rejection for registration u/s 80G(5), is also remanded back to the Ld CIT (E) for consideration afresh as per procedure of law .

19. We have not expressed any opinion on merits.

20. In the result, both the appeals filed by the assessee in ITA Nos. 150 & 209/Asr/2024 are allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 29.04.2025.

Sd/-
(Krinwant Sahay)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order