

**IN THE INCOME-TAX APPELLATE TRIBUNAL “B” BENCH,
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 1522/MUM/2025
(A.Y. N/A)**

**ITA No. 1523/MUM/2025
(A.Y. N/A)**

Bharat Vikas Parishad, 1009-1015, 10 th Floor, Topiwala Centre, Topiwala Centre Compound, Near Railway Station Goregaon, Goregaon, Mumbai- 400104, Maharashtra	v/s. बनाम	Income Tax Officer, Exemption, Ward 1(1), Mumbai, Cumballa Hill MTNL TE Building, Pedder Road, Mumbai-400026, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAATB7049L		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Rajiv Khandelwal / Shri Aakash Kumar
Respondent by :	Shri Rakesh Ranjan, CIT-DR

Date of Hearing	17.04.2025
Date of Pronouncement	28.04.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The above captioned appeals have been filed by the assessee Trust against two separate orders as passed by the Learned Commissioner of Income-tax (Exemptions), Mumbai [hereinafter referred to as “CIT(E)”]. Since the issues involved are common and also the fact that appeals were heard together, they are being taken up together for adjudication vide this composite order for the sake of brevity.



2. The grounds of both the appeals are as under:-

ITA No. 1522/MUM/2025

1. *The Commissioner of Income-tax (Exemptions), Mumbai (hereinafter referred to as the CIT(E)) erred in rejecting the application for registration under section 12AB of the Act on the ground of non-compliance by the appellants. The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(E) ought not to have rejected the application for registration inasmuch as he has not correctly appreciated the facts of the case in its entirety and hence, the action of the CIT(E) needs to be reversed.*
2. *The CIT(E) erred in framing an ex-parte order.*

ITA No. 1523/MUM/2025

1. *The Commissioner of Income-tax (Exemptions), Mumbai (hereinafter referred to as the CIT (E)) erred in rejecting the application for registration under section 12AB of the Act on the ground that (i) the application was earlier rejected by an order dated 13.03.2023 and (ii) as per CBDT Circular no 7/2024 dated 25.04.2024, a fresh application could be made only in cases where the application was filed after the due date, or under a wrong section code. The appellants contend that on the facts and in the circumstances of the case and in law, the CIT (E) ought to have admitted the application for registration under section 12AB and ought to have decided the case on merits. The appellants further, contend that on the facts and in the circumstances of the case and in law, the CIT (E) ought not to have relied on the CBDT Circular no 7/2024 to reject the application inasmuch as the said circular nowhere bars the assessee to file a fresh application (or a second application) under section 12AB and hence, the action of the CIT(E) is bad in law and needs to be reversed.*
2. *The CIT (E) erred in framing an ex-parte order.*



3. It was informed by the Registry that both the appeals are delayed. While the appeal is delayed by 658 days in ITA No.1523, it is delayed by 40 days in ITA no.1522. In this regard, an affidavit of one Sri Rakesh Ostwal, stated to be member of the trust and past General Secretary and Treasure as also a qualified Chartered Accountant has been submitted. It is submitted by him that due to personal reasons he could not pay attention to the emails of the department sent to the Trust though he was handling accounts, audit and income tax related work since 2014. He came to know of it only through another member Sri S.S.Gupta, CA who was also looking into these matters since November 2024. A new tax Consultant was appointed and the appeal was filed on 28.02.2025. It is contended that delay on part of the assessee trust was not intentional. As regards ITA no.1522, which is delayed by 40 days similar reasons have been stated.

4. We have duly considered the above facts and find that the appeals have been filed belated due to negligence of one of the key persons looking after the income tax and related issues. We are of considered view that the assessee Trust should not suffer on account of negligence of the above person though the reasons adduced by him are not very convincing. In this connection reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in



Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC) that “ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs serious risk. In view of the facts of the case narrated above and in the light of the decision quoted, the delay in filing of the present appeals is therefore, condoned and appeals are being taken up for adjudication on merits.

5. The brief facts of the case are that the assessee filed application in Form 10AB u/s 12A(1)(ac) (iii) seeking registration under section 12AB of the Act. It had been granted Provisional Registration under Section 12A of the Act in Form 10AC. Earlier the assessee had filed Form 10AB, to which notices were issued by the Id.CIT(E). He had requisitioned various details and information in terms of sub-rule(2) of Rule 17A. However, details were not submitted by the assessee even in response to a subsequent reminder. Therefore, he concluded that he was



unable to arrive at a satisfaction with regard to the objects of the trust, genuineness of its activities, compliance of all laws material for the purposes of achieving its objectives. Consequently, the application in Form 10AB seeking registration u/s 12AB of the Act was rejected on the ground of non-compliance vide order dated 13.03.2023.

5.1 Subsequently, the assessee Trust again filed Form 10AB u/s 12A(1)(ac) (iii) seeking registration under section 12AB of the Act. The Id.CIT(E) noted that in the order dated 13.03.2023(supra), the application was already rejected. The Id.CIT(E) noted that the CBDT circular No. 7/2024 dated 25.04.2024 vide para 4.1 permitted filing of fresh application only in cases where the application was filed after 'due date' or filed under wrong section code.

5.2 The Id.CIT(E) further found that the applicant trust had earlier filed an application in Form 10AB which was rejected on the ground of non-compliance and not on the ground that the application was furnished after the 'due date' or that the application had been furnished under the wrong section code. It made the assessee Trust ineligible to apply again as per the circular 07/2024 dated 25.04.2024. In view of the same, this application for regularization of registration was not found maintainable by him and the same was rejected.



6. Before us, the ld.AR reiterated the grounds of appeal pleading that the claim of the assessee was wrongly rejected in ex parte manner on a mere procedural lapse on part of the assessee trust which is engaged in charitable activities. It is further stated that the CBDT Circular no.7/2024 has been wrongly interpreted by the ld.CIT(E) in rejecting its bonafide claim for registration. It is further submitted that the said Circular nowhere bars the assesses to file a fresh application (or a second application) u/s 12AB of the Act.

6.1 The ld.DR has made oral as well as written submissions in support of the orders of the ld.CIT(E).It is inter alia stated that both the impugned rejection orders dated 13.03.2023 and 25.04.2024 are fully justified. First application was materially deficient as it lacked essential documents required under Rule 17A(2). Several reminders were also issued following principles of natural justice. Registration u/s 12A is conditional right subject to satisfaction of by the CIT(E) of genuineness of its activities which the assessee failed to do. Reliance is also placed on the decision of coordinate Bench of ITAT, Ahmedabad in the case of Amrut Antidham Charitable Trust, ITA No.545/Ahm/2023 wherein ITAT upheld rejection of application for registration on identical ground of non compliance and non co-operation.



7. We have considered the issue at length. It is fact that the assessee did not attend the proceedings before the Id.CIT(E) and did not furnish the required details which resulted in rejection of its claim for registration. Therefore, there is no substantive hearing of the case. However, it is equally true that it is the fundamental duty of the assessee to diligently pursue its case and comply with the notices and proceedings initiated by the Revenue authorities. The framework of the Act and the e-proceedings system rely heavily on the co-operation and active participation of the taxpayer. Despite the notices by the CIT(E), no substantive explanation was submitted. The failure of the assessee to make any response before the authority reflects gross negligence and an indifference. The principles of natural justice operate both ways, while the Revenue authorities are required to provide a reasonable opportunity of being heard, the taxpayer is equally obligated to co-operate with the authorities and utilize the opportunities extended. In the present case, despite receiving adequate opportunities, the assessee displayed a casual approach and indifference.

7.1 As the Id. AR has requested before us that the assessee may be given one more opportunity and this request which was not objected by the Id.DR, we are of the opinion that the scales of justice demands that the matter should be verified and revisited at the level of Id. CIT(E) and



accordingly, we are of the considered view that the matter should be remanded back to him for *de novo* adjudication by while applying the principles of natural justice after affording sufficient opportunity of being heard to the assessee which is also directed to make proper compliance taking it as a last opportunity in this regard.

8. Therefore, **ITA No. 1522/Mum/2025 is allowed for statistical purposes**, while Appeal in **ITA no. 1523/Mum/2025 being infructuous is accordingly dismissed**.

Order pronounced in the open court on 28/04/2025.

Sd/-

NARENDER KUMAR CHOUDHRY

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 28.04.2025

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.

