

**आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE**

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

आयकर अपील सं. / ITA No.2569/PUN/2024

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| Shree Hari Kirt Anottejak Sabha, 1739, Sadashiv Peth, Pune-411030 PAN : AAATS4522P | Vs. | CIT(Exemption), Pune |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

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|-------------------------|--------------------------|
| Assessee by : | Shri Sharad Atmaram Vaze |
| Department by : | Shri Amol Khairnar |
| Date of hearing : | 11-03-2025 |
| Date of Pronouncement : | 23-05-2025 |

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 06.09.2024 of the Ld. Commissioner of Income Tax (Exemption), Pune [**CIT(E)**] whereby he rejected the application of the assessee filed before him on 14.03.2024 in Form No. 10AB u/s 12A(1)(ac)(vi)-ITEM(B) of the Income Tax Act, 1961 (**the “Act”**).

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

“1. On the basis of facts and in the circumstances of the case and as per law, the Commissioner of Income Tax, (Exemptions) Pune, is not justified in rejecting the regular registration even after the submission of information called from the assessee-trust. The rejection is only on the hyper-technical ground of wrong section code inadvertently /mistakenly used by the assessee in Form 10AB.

The Commissioner of Income Tax (Exemptions) Pune be directed to consider Form 10AB filed on 27.03.2024 as having been filed under Clause (iii) of sec 12A(1)(ac), by condoning the delay / limitation, if any.

2. *The appellant craves leave to add, alter, omit or substitute any of the grounds at the time of hearing of the appeal.”*

3. Briefly stated, the facts of the case are that the assessee is a charitable trust registered under Maharashtra Public Trusts Act, 1950 on 08.05.1953. The assessee trust was registered u/s 80G by Commissioner of Income Tax, Pune on 21.12.1994. The assessee sought registration under new scheme and was also granted provisional registration on 27.10.2021. On receipt of application filed in Form No. 10AB u/s 12A(1)(ac)(vi) of the Act on 14.03.2024 along with annexures thereto, the Ld. CIT(E) 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, issued a notice through ITBA portal on 16.05.2024 duly served upon the assessee via e-portal/email requesting the assessee to upload certain information/clarification stated therein. The assessee was requested to submit its compliance by 31.05.2024. The assessee responded to the said notice on 10.06.2024 and requested for an adjournment. An adjournment was granted upto 12.07.2024 vide notice dated 05.07.2024 served on the assessee through e-portal and email. On verification of the details/documents submitted by the assessee in response to the said notice, the Ld. CIT(E) observed various discrepancies which were communicated to the assessee by issue of another notice on 22.08.2024 served via email/e-portal seeking compliance by 29.08.2024. The said discrepancies as listed out in para 4 of the Ld. CIT(E)'s order are as under :

"(i) As per financial statements furnished by you, you, it is seen that the trust has claimed deduction u/s 11. Therefore, said provisions of sec. 12A(1)(ac)(vi)(B) / 80G(5) (iv) (B) of the Act are not applicable to your case. As such, your present application is liable to be rejected. Please clarify with supporting documents.

(ii) You have not furnished point-wise reply to the initial notice. The basic details such as date of commencement of activities, details of religious objects, details of business undertakings, donors list, details of relevant Laws for achievement of objectives with proof of compliance, and other related details were called for vide the said notice. But you have not furnished the same till date. Thus, you have failed to comply with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961.

(iii) As per the provisions of Rule 17A(2)(k) / 11AA(2)(h) of the Income Tax Rules, 1962, the application in Form No.10AB shall be accompanied by note on activities giving details of activities actually carried out but you have failed to comply with those provisions. You ought to be submit the details of actual activities carried out in the last 3 years or since inception, whichever is later. Further, the supporting evidence of the activities in the form bills and photographs are also not submitted by you. In absence of any such tangible material in respect of details and proof of activities being carried out, it is not possible to ascertain as to whether the activities are charitable and in line with the objects of the trust / institution.

(iv) Kindly furnish evidences claiming expenses on charitable activities such as bills/vouchers/invoices alongwith photographs of activities carried out by your trust.

(v) You have not submitted ledger account of donation receipts. You were specifically requested to furnish year-wise list of all donations received (including corpus donations etc.) during the last 3 years / since inception, whichever is later viz. name of donor, address of donor, amount of donation, mode of donation / receipts etc. vide initial notice. You have not furnished the details as required in above format. Please furnish the same."

3.1 In view of the above, the assessee was requested to show cause as to why the application should not be rejected and why the registration granted u/s 12AB of the Act should not be cancelled in the event of failure to comply by the due date. However, the assessee neither submitted explanation to the show cause notice nor availed the opportunity of being heard. Since, the assessee did not furnish any explanation to the discrepancies communicated to it, the Ld. CIT(E) presumed that the assessee has nothing to say in the matter. Due to the non-compliance of the notice, the Ld. CIT(E) found himself unable to arrive at any satisfactory conclusion about the genuineness of activities of the assessee and concluded that the assessee appears to be not having any supporting documents/evidence to submit. He therefore rejected the application of the assessee vide his impugned order dated 06.09.2024 for the reason of wrong selection of code while e-filing Form 10AB and non-submission of the other details in response to the second notice.

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

5. The Ld. AR submitted that non-compliance before the Ld. CIT(E) was not intentional. The assessee had duly filed response to the first notice issued by the Ld. CIT(E) and submitted the information called for. However, subsequent notice issued could not be complied with owing to the reason that the assessee was not aware about such notice as all notices were issued online. He submitted that the assessee filed the application under wrong section code inadvertently/mistakenly and the rejection of assessee's application for regular registration by the Ld. CIT(E) for this reason is hyper-technical in nature. He also relied on the CBDT Circular No. 14 dated 11.04.1955 which stipulates that advantage of assessee's ignorance should not be taken to collect more tax than what is legitimately due from him. The Ld. AR cited the decision of the ITAT, Mumbai in the case of Siddhakala Bhakta Mandal Vs. CIT(E) in ITA No.

1731/Mum/2023 wherein the Tribunal held that : *“It is also pleaded before us that the 2 notices issued by CIT [Exemption] could not be responded because trust was not having knowledge about such notices issued through ITBA portal. In view of above facts and circumstances, we direct the assessee trust to once again make an application before CIT [Exemption] for registration of those trust in prescribed format and complete in all respect also comply with the two notices already issued and submitted those details within 90 days from the date of this order. Thereafter, the learned CIT [Exemption] is directed to dispose these applications in accordance with the law”*. Placing reliance on the decision of the Pune Tribunal in the case of Help For Children In Need Vs. CIT, Exemption dated 09.12.2024, he submitted that in a similar factual scenario where the application was rejected for the reason for selection of wrong code, the Tribunal has set aside the order of the Ld. CIT(E) and remanded the same to his file with a direction to treat the application as filed under the correct code. The Ld. AR submitted that given an opportunity the assessee trust is in a position to explain and substantiate its case before the Ld. CIT(E) by filing all the requisite details/documents to the satisfaction of the Ld. CIT(E) and prayed that the matter may be restored to the file of the Ld. CIT(E) for fresh adjudication after allowing due opportunity of hearing to the assessee.

6. The Ld. DR fairly conceded to the above request of the Ld. AR.

7. We have heard the Ld. Representatives of the parties, perused the order of the Ld. CIT(E) and also the paper book filed on behalf of the assessee as well as the judicial precedents relied upon by the Ld. AR. The facts of the case are not disputed. The assessee applied for regular registration by filing Form 10AB on 14.03.2024. A show cause notice was issued by the Ld. CIT(E) indicating wrong selection of code by the assessee while e-filing Form 10AB and also requiring the assessee to submit certain details/documentary evidence for claiming expenses in respect of charitable activities carried out by the trust, ledger account of donation receipts, etc. Since assessee failed to furnish its response to the show cause notice issued by the Ld. CIT(E) and the application being filed under the wrong section code, he rejected the application for grant of registration. Before us, the assessee has admitted that the assessee filed the application under wrong section code inadvertently and there was non-compliance before the Ld. CIT(E) but it was not intentional and occurred due to the issuance of notice online which skipped the attention of the assessee. We

find that the case of the assessee finds support by the judicial precedents (supra) cited by the Ld. AR. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. CIT(E) with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details to his satisfaction and decide the issue afresh by treating the application of the assessee as filed under the correct/desired section as per fact and law. The assessee is also hereby directed to submit the details as called for by the Ld. CIT(E) on the appointed date without seeking any adjournment under any pretext unless required for sufficient cause, failing which the Ld. CIT(E) is at liberty to pass appropriate order as per law. The assessee is also directed to provide the latest email id and contact details to the Department for receiving notice(s) for hearing through the Department's portal and shall remain vigilant in accessing the same and file its response thereto. 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.

Order pronounced in the open court on 23rd May, 2025.

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

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 23rd May, 2025.
रवि

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, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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