

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.726/PUN/2022
निर्धारण वर्ष / Assessment Year : 2022-23

Shrimad Rajchandra Swadhyay Mandir Trust, Next to Kothari Santorium Lam Road- Main Road, Deolali Camp, Nashik – 422401. PAN: AABTS 8291 C	V s	The Principal Commissioner of Income Tax,
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Makarand Palkar – AR
Revenue by	Shri B Koteswara Rao – DR
Date of hearing	12/01/2023
Date of pronouncement	17/01/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the Assessee against the order of
CIT(CPC) passed under section 12A of the Act in Form No.10AC.

The assessee has raised the following grounds of appeal :

“Ground No.1

Condonation of delay in filing the Appeal: Your Appellant was prevented from filing the Appeal in time before your honor and prays to condone the delay of 409 days.

Ground No.2

a. The Hon. Principal Commissioner of Income Tax / Commissioner erred in passing "order for provisional registration" in Form 10AC despite the fact that the Appellant is an old trust, registered u/ s. 12AA of the Act;

- b. The Hon. Principal” Commissioner issued Order for provision registration treating the application for registration in Form 10A by a New Trust;*
- c. The Hon. Principal Commissioner erred in issuing Order for provisional registration although the Order has been passed under correct sub clause (i) of clause (ac) of sub -section (1) of section 12A r/w. rule 17A/11AA/2C under which the Order is passed for an existing Trust; Relief claimed: To issue of "Order for registration" instead of "Order for provisional registration" in Form 10AC under Sub clause (i) of clause (ac) of sub -section (1) of section 12A r.w. Rule 17A/11AA/2C.”*

2. The only grievance of the assessee is that assessee is a trust which was registered under section 12A of the Act on 22.11.1974. As per the recent amendments in the Act, the assessee applied for re-registration under section 12A(1)(ac)(i) of the Act. The CIT(CPC) vide order dated 31.05.2021 issued provisional registration. The ld.Authorised Representative(ld.AR) of the assessee brought to our notice that CBDT vide circular no.11 of 2022 has clarified that due to technical glitches, the certificate issued was having the words provisional registration instead of order for registration. As per the section 12AB(1)(a) the Trust which were applying for re-registration, the ld.CIT was to issue registration certification for a period of five years provided the trust fulfilled all other conditions. The relevant portion of section 12AB is reproduced here as under:

“12AB.(1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,-

(a) Where the application is made under sub-clause(i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;”

3. However, in the present case erroneously CIT has issued provisional registration. In this case, it is an admitted fact that the Trust has applied for re-registration and it was having registration since 1974. In these circumstances, as per the provisions of the section 12AB, CIT should have issued certificate for five years. As clarified by the CBDT in its circular no.11 of 2022 there has been some technical glitches due to which provisional registration had been issued. The relevant part of the CBDT circulars is reproduced as under:

“(ii) where due to technical glitches, Form No. 10AC has been issued during FY 2021- 2022 with the heading “Order for provisional registration” or “ Order for provisional approval” instead of “Order for registration” or “ Order for approval”, then all such Form No. 10AC shall be considered as an “Order for registration or approval” and, in such cases where Form No. 10AC has been issued.”

4. Therefore, the Id.CIT is directed to issue the registration certificate for five years as per the section 12AB of the Act and following CBDT circular no.11 of 2022. Accordingly, grounds of appeal raised by the assessee are allowed.

5. In the result, appeal of the Assessee is Allowed.

Order pronounced in the open Court on 17th January, 2023.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 17th Jan, 2023/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.