



॥ आयकर अपीलीय न्यायाधिकरण, पुणे “बी” न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE “B” BENCH, PUNE
BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 1029/PUN/2023

Seth Bechardas Manchand Jain Shwet Amber Trust

797, Jayraj Bhavan,

Shukrawar Peth, Pune-411002.

PAN:AAATS8553N

..... अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax-Exemption,

Pune

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Mr Bhuvanesh Kankani

Revenue by : Mr Ajay Kumar Kesari

सुनवाई की तारीख / Date of conclusive Hearing : 27/10/2023

घोषणा की तारीख / Date of Pronouncement : 27/10/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By present appeal the assessee trust challenged DIN & order No. ITBA/EXM/F/EXM45/2023-24/1054753345(1) dt. 31/07/2023 of the Commissioner of Income Tax-Exemption, Pune [for short ‘CIT(E)’] passed u/s 80G(5) of the Income-tax Act, 1961 [for short ‘the Act’]

2. We have heard rival contentions of both the parties; and subject to the provisions of rule 18 of ‘ITAT-Rules’, perused material placed on record.



3. We observed that, the appellant trust applied for 80G registration under clause (iii) of first proviso to sub-section (5) of section 80G of the Act on 16/02/2023. Upon perusal of Form 10AB and accompanying documents, the Ld. CIT(E) by issue of notice dt. 19/05/2023 called upon the appellant to substantiate the existence and genuineness of its activities and to furnish certain information / clarification etc., however assessee trust failed to comply therewith. The assessee vide notice dt. 10/07/2023 was again granted one more opportunity to make good the shortcoming, however this notice also went futile. In the event of failure of appellant to place on records requisite material to enable to arrive at positive satisfaction, the Ld. CIT(E) proceeded on the basis of information on records, and concluded the activities of the appellant lacks genuinity and thus rejected its application.

4. *Per contra*, from page 5 and 10 of paper book filed by the appellant we observed that, both these former notices were sent by the Ld. CIT(E) on email-id's which are different than the one registered with jurisdictional assessing officer, as evident form page 11 of paper book. Undisputedly, the non-compliance is attributable to lack of effective notice to the appellant, thus absence of reasonable opportunity.

5. In our view in the matter of registration, a reasonable and effective opportunity to the appellant is necessary to protect against arbitrary rejection by the registering authority. This also ensures that negative observations (if any) are negated by credible evidences by the appellant. Any proceedings culminated without effective notice and opportunity would be violative of principle of natural justice, which *de-facto* turns the proceedings bad in law and therefore deserving to be set-aside.



6. In view of the aforesaid discussion and the ratio laid down by the Hon'ble Rajasthan High Court in 'Sanatan Dharm Mahaveer Dal Vs CIT' reported in 252 ITR 46, the impugned proceedings culminated in violation of principles of natural justice are in our considered view deserves to be set-aside as *contra-legem*. In the event, without offering any comment on merits of the case, we deem it fit to remand the matter back to the file of Ld. CIT(E) with a direction to accord a reasonable opportunity to the appellant by serving notice/s on such registered email-id and to decide the issue of grant of 80G recognition a fresh in accordance with law, preferably in three effective hearings.

7. **Resultantly, the appeal is allowed for statistical purpose in above terms.**

U/r 34 of ITAT Rules, order pronounced in open court on this Friday 27th day of October, 2023.

-S/d-

S. S. GODARA

JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 27th day of October, 2023.

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT, Pune (MH-India)

4. The CIT(E), Pune (MH-India)

5. DR, ITAT, Pune Bench 'B', Pune

6. गार्डफ़ाइल / Guard File.

-S/d-

G. D. PADMAHSHALI

ACCOUNTANT MEMBER

आदेशानुसार / By Order,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलिय न्यायाधिकरण, पुणे / ITAT, Pune.