



आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD**

BEFORE
SHRI MANJUNATHA G., ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No.567/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2020-21)

Darga Ehazrat Syedshah Khwajadas Chisti Unnayabi Perpetual Trust Vatpalli [PAN : AABTD7956M]	Vs.	Income Tax Officer, Exemption Ward-1(3) Hyderabad
--	-----	--

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Rajesh Vaishnav, AR
राजस्व द्वारा/Revenue by: Shri Srinath Sadanala, DR

सुनवाई की तारीख/Date of hearing: 14/08/2024
घोषणा की तारीख/Pronouncement on: 29/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 30/03/2024 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Darga Ehazrat Syedshah Khwajadas Chisti Unnayabi Perpetual Trust Vatpalli ("the assessee") for the assessment year 2020-21, the assessee preferred this appeal.



2. Assessee is a Trust. It filed Form 10B for the assessment year 2020-21 on 20/3/2021 and filed the return of income on 22/3/2021. While processing the return of income under section 143(1) of the Income Tax Act, 1961 (for short "the Act"), the benefit of section 11 and 12 of the Act was denied on the ground that Form 10B was not filed within the prescribed time limit.

3. When the assessee preferred appeal, learned CIT(A) also recorded that the extended due date to file the return of income for the assessment year 2020-21 was 15/2/2021 and the return of income in this matter was filed on 22/3/2021 after the due date. According to the learned CIT(A), it is evident from the CBDT circular No. 3/2020 dated 3/1/2020 and circular No.16/2022 dated 19/7/2022 read in the light of section 119(2)(b) of the Act, the authorities do not have the authority to grant condonation of delay in filing Form 10B. On this premise, learned CIT(A) dismissed the appeal.

4. Assessee, therefore, preferred this appeal and contended that vide circular No.2/2020 dated 3/1/2020, CBDT in exercise of the powers conferred under section 119(2)(b) of the Act, authorised the Commissioners to admit the belated applications of condonation of delay of 365 days for the assessment years 2018-19 or for any subsequent assessment years and to decide the same on merits. He further placed reliance on a decision in the case of ITO vs. Ramji mandir religious and charitable trust (2024) 158 Taxmann.com 114 (Ahmedabad-Trib) in support of his contention.

5. Ld. DR submitted that as rightly pointed out by the Ld. CIT(A), in terms of the CBDT Circular No. 2/2020 dated 3/1/2020 the assessee has to file condonation application under section 119(2) of the Act before the concerned CIT with the reasons for belated filing of the audit report and it is only on such condonation of the delay, the issue will be decided on merits by the Commissioner of Income Tax (Appeals). Ld. DR submitted that the assessee did not resort to such a procedure contemplated under the Circular and therefore, the CPC rightly disallowed the exemption claimed by the trust under section 11(2) of the Act.



6. We have gone through the record in the light of the submissions made on either side. As a matter of fact, this issue is no longer res integra and decided by the coordinate Bench of the Ahmadabad Tribunal in the case of Ramji Mandir Religious and Charitable Trust (supra), wherein, after reviewing the entire case law on this aspect, in unequivocal terms, it was held that the requirement of filing Form 10/10B is merely directory in nature and failure to furnish Form 10/10B before the due date prescribed under section 139(1) of the Act cannot be so fatal as to deny the claim of exemption under section 11(2) of the Act, especially when Form 10/10B was available on record when the intimation was passed by CPC under section 143(1) of the Act. In reaching such a conclusion the Bench considered the binding precedents rendered by the Hon'ble Gujarat High Court and other high courts and the Hon'ble Supreme Court. Respectfully following the same we hold that since the Form 10 was available when the CPC passed the intimation in this case, disallowance of the claim of the assessee under section 11(2) of the Act is not proper.

7. Admittedly in this matter, the return of income was filed on 22/3/2021, Form 10B was filed on 20/3/2021 and the intimation under section 143(1) of the Act was passed on 30/11/2021, indicating that as on the date of passing of the 143(1) of the Act intimation Form 10B was very much available on record. We, therefore, respectfully following the view taken by the coordinate Bench in the case of Ramji mandir Religious and Charitable Trust (supra), we deem it just and proper to direct the learned Assessing Officer to consider Form 10B available on record at the time of processing the return of income. Learned Assessing Officer is, therefore, is directed to consider Form 10B available on record and to pass appropriate orders.



8. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on this the 29th August,2024.

Sd/-
(MANJUNATHA G.)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 29/08/2024
L.Rama, SPS

Copy forwarded to:

- 1.Darga Ehazrat Syedshah Khwajadas Chisti Unnayabi Perpetual Trust
Vatpalli, Vatpally Sahreef, Vatpally Village, Watpalle, Medak, Gorrekal
- 2.ITO, Exemption Ward 1(3), Hyderabad
- 3.Pr.CIT (Exemptions), Hyderabad.
- 4.DR, ITAT, Hyderabad.
- 5.GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD