

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “ए”, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH “A”, CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृष्णवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं./ ITA No. 1044 /Chd/ 2025
निधरण वर्ष / Assessment Year : 2021-22

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| El Aar Memorial Educational Trust SCO-6, 2 nd Floor, Above ICICI Bank, Sector 11, Panchkula, Haryana, Panchkula Sector 8, S.O. Panchkula, Yamuna Nagar, 134109, | बनाम | CIT(Exemption) Chandigarh |
| स्थायी लेखा सं./PAN NO: AAATE3571G | | |
| अपीलार्थी/Appellant | | प्रत्यर्थी/Respondent |

निधरिती की ओर से/Assessee by : Shri Ashok Goyal, C.A
राजस्व की ओर से/ Revenue by : Shri Manav Bansal, CIT, DR

सुनवाई की तारीख/Date of Hearing : 04/11/2025
उद्घोषणा की तारीख/Date of Pronouncement : 28/11/2025

आदेश/Order

PER KRINWANT SAHAY, J.M:

This is an appeal filed by the the assessee trust against the order of the Ld. CIT Exemptions, Chandigarh dt. 09/01/2023.

2. At the outset, the Registry has pointed out that the present appeal is time-barred by 111 days. In light of this, the assessee has submitted an application requesting the condonation of the delay in filing the appeal. The relevant contents of this condonation application read as follows:

2. That your kind attention is drawn towards the fact that El Aar Memorial Educational Trust is a trust registered under Sub Registrar Office, Panchkula, Haryana, having Registration Number 1563 of 2002-2003 and is engaged in charitable activities with the objective of running a school/college/training centre for providing education and training to young boys and girls as well as adults in health and medical science with opportunities for research.

3. That to get Final Registration under Section 12AB of the Income Tax Act, 1961, an application was filed with CIT(Exemptions) in Form 10AB on 12.07.2022. To issue the same, CIT(Exemptions), Chandigarh sent notices along with detailed questionnaire on e-filing portal on 07.09.2022, 10.11.2022 and 24.11.2022 but no intimation through mail was received for this.

4. That despite various notices being issued regarding the registration under section 12AB, the trust failed to respond to any of them as we were unaware about the same.

5. That because of non-compliances of the above-mentioned notices, ex-parte order was issued by Ld. CIT (Exemptions) on 09.01.2023. However, no intimation of the same was also received through mail

6. That the appellant came to know about the said order only because of the assessment proceedings for AY 2023-24. The said assessment proceedings mentioned that the trust did not have registration under section 12AB, and thus, Ld. AO passed an assessment order against us on 25.02.2025.

7. That even after we came to know about the rejection order, we could not file an appeal against the said order within time as the appellant's counsel's mother was unwell during the said period and was going through chemotherapy, because of which, the counsel was unable to provide us proper guidance and, hence, missed the time limit for filing the appeal before Hon'ble ITAT.

8. That realizing considerable time had passed, the appellant sought a second opinion in August and approached a new counsel. The new counsel gave proper guidance for further procedure and hence, the appellant is filing the appeal against the rejection order passed by Ld. CIT (Exemptions).

9. That the appellant never had any intention of non-compliance of notices. Such non-compliance was only due to the non-receiving of notices on the mail.

10. That the appellant was under the bonafide belief that they held the registration under section 12AB under Income Tax Act, 1961 till the Ld. AO passed an assessment order stating that the trust was not registered under the same.

3. Ld. DR strongly opposed the condonation of delay.

4. We have carefully considered the application filed by the assessee seeking condonation of delay in filing the present appeal. It is noted that the order of the Ld. CIT(Exemptions) was passed on 09.01.2023 through Form 10AD under the Income Tax Act, 1961. The assessee has submitted that the non-compliance of notices issued by the Ld. CIT(Exemptions) was not intentional and occurred due to the non-receipt of email communications, which resulted in the passing of an ex-parte order. It has further been stated that the assessee became aware of the rejection order only during the assessment proceedings for AY 2023-24. Additionally, it has been explained that the delay occurred because the assessee's earlier counsel could not provide proper guidance due to his mother undergoing chemotherapy, and only after seeking a second opinion in August 2025 did the assessee receive suitable advice and proceeded to file the present appeal. These facts have been duly supported and explained in the condonation application.

5. Considering the reasons furnished, we find that the assessee was under a bona fide belief that it possessed valid registration under section 12AB and there was no deliberate intention to disregard the statutory notices. The circumstances explained by the assessee constitute a reasonable and sufficient cause for the delay in filing the appeal. In view of the principles laid down by judicial precedents that substantial justice should prevail over technicalities, and keeping in mind the spirit of section 253(5) of the Income Tax Act, 1961, we are satisfied that the delay of 111 days deserves to be condoned.

6. Accordingly, the delay in filing the appeal is hereby condoned, and the appeal is admitted for hearing on merits.

7. During the course of hearing the assessee contends that the impugned order suffers from violation of the principles of natural justice, as no effective opportunity of hearing was granted. It is submitted that mere uploading of notices on the e-filing portal does not constitute valid service under section 282 of the Act read with Rule 127 of the Rules, and therefore, the assessee could not comply with the queries. The application was rejected solely for non-compliance without examining the merits of the claim for registration under section 12AB. The assessee submits that the matter deserves reconsideration after providing a proper and meaningful opportunity of hearing and reserves the right to add or amend grounds before disposal of the appeal.

8. Per contra, the Ld. DR relied on the order of the lower authority.

9. We have carefully considered the impugned order of the Ld. CIT(Exemptions), Chandigarh, as well as the material placed on record, including the grounds of appeal. It is noted that online notices and questionnaires were issued to the assessee; however, as recorded by the Ld.CIT(E), no compliance was made, nor was any adjournment sought, resulting in the dismissal of the application for non-submission of requisite details. The assessee has contended that the notices were merely uploaded on the e-filing portal and were not served in the manner prescribed under section 282 of the Income Tax Act, 1961 read with Rule 127 of the Income Tax Rules, 1962. It is further pleaded that the rejection of the application, without granting an effective and meaningful opportunity of hearing, amounts to violation of the principles of natural justice. Considering the fact that the application

has not been examined on merits and has been rejected solely on account of non-compliance, we are of the view that the assessee deserves one more opportunity to substantiate its claim. In view of the principle of *audi alteram partem* and keeping in mind that the issue pertains to registration under section 12AB affecting the charitable status of the assessee, we deem it appropriate to remit the matter back to the file of the Ld. CIT(Exemptions) for fresh adjudication, strictly in accordance with law, after providing a proper and effective opportunity of being heard. The assessee shall also be at liberty to furnish any additional evidence or legal submissions in support of its claim, and no opinion is expressed on the merits at this stage.

10. In the result, the delay is condoned, the appeal is admitted, and the matter is remanded to the Ld. CIT(E) for fresh adjudication. The appeal is thus allowed for statistical purposes.

11. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 28/11/2025

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य / ACCOUNTANT MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चंडीगढ़ / DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar