HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10214-2023 (O&M)
Date of decision: 31.05.2023

Shri Anandpur Satsang Trust ....Petitioner

V/s.

Commissioner of Income Tax (Exemptions) Chandigarh ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Alok Mittal, Advocate
for the petitioner.

Mr. Varun Issar, Junior Standing Counsel
for the respondent.

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Ritu Bahri, J. (Oral)

CM-9465-CWP-2023

Application is allowed and short reply is taken on record.

CWP-10214-2023

The petitioner is seeking quashing of order dated 28.04.2023 (Annexure P-14) whereby his application for registration of the Trust under Section 80G(5) of the Income Tax Act, 1961 has been rejected.

A perusal of the order dated 28.04.2023 (page No. 118 of the paper-book) shows that the Trust was created on 13.02.2008 and the application Form 10AB Clause (iii) of first proviso to sub-section(5) of Section 80G of the Act has not been filed within the time prescribed. The respondent has referred to Circular No.12 of 2021 dated 25.06.2021, Circular No.16 of 2021 dated 29.08.2021 and Cricular No. 8/2022 dated 31.03.2022 vide which the time is extended for filing application for registration.

On 11.05.2023, when notice of motion was issued, it has been observed that last date for filing application for registration was 30.09.2022 and the petitioner-Trust made application for registration on 01.10.2022.

Short reply by way of the affidavit of the Commissioner of Income Tax (Exemptions) Chandigarh dated 23.05.2023 has been filed. The stand taken therein is that the petitioner was bound to make application for approval on or before 30.09.2022. The petitioner has 12 months to file Form 10AB and the petitioner has filed Form 10AB on 01.10.2022. The Commissioner of Income Tax (Exemptions) Chandigarh has no power to condone the delay in filing Form 10AB.

In the present case, since the delay is only of one day in filing Form 10AB and this in itself cannot be made a ground to reject applicaton of the petitioner. Hence, the present petition is allowed and the order dated 28.04.2023 (Annexure P-14) is set aside and the matter is remanded back to the competent authority to pass fresh order without taking into account the delay in filing Form 10AB.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

31.05.2023
Divyanshi

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No