

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'A' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 342/DEL/2016 (A.Y 00)

Dayal Bagh Soami Nagar Residents Society (Delhi) D-45, Soami Nagar, New Delhi AABAD8835E (APPELLANT)	Vs	CIT (E) New Delhi (RESPONDENT)
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Appellant by	None
Respondent by	Smt. Aparna Karan, CIT DR

Date of Hearing	19.09.2017
Date of Pronouncement	19.09.2017

ORDER

PER R. K. PANDA , AM

This appeal filed by the assessee is directed against the order of the CIT-Exemption, New Delhi, refusing grant of Registration u/s 12AA of the Income Tax Act.

2. Non-appeared on behalf of the assessee despite service of notice. Therefore, this matter is being disposed of on the basis of material available on record and after hearing the Ld. DR.

3. Facts of the case, in brief, are that the assessee is a society registered under the Society Registration Act, 1860 on 28th August, 1985. It filed an application on 21st May 2015 in Form No. 10A seeking registration u/s 12AA of the Income Tax Act. A letter dated 21st May 2015 was issued by the Office of

the CIT(A) asking the assessee to furnish certain details, document/explanation in support of its claim to registration u/s 12AA.

4. The applicant society filed part details but it failed to file the original registration certificate, Memorandum of Association and rules and regulation of the society for verification. Since, there was failure on the part of the assessee to furnish the above details, the Ld.CIT held that the application filed by the applicant is incomplete. He further observed from the memorandum of association of the society that all the objects are for the benefit of the colony residents and not for general public at large and, therefore, found to be non charitable. In view of the above and relying on various decisions, the Ld.CIT held that the applicant society has not satisfied the conditions/requirements for grant of registration u/s 12AA of the I.T Act. He accordingly rejected the application seeking grant of Registration 12AA of the IT Act.

5. Aggrieved with such order of the CIT, the assessee filed appeal before the Tribunal by raising the following grounds:-

1. *That the order of the Commissioner of Income-tax (Exemptions), New Delhi, dated 19.11.2015, passed under Section 12AA of the Act is wrong on facts and bad in law;*
2. *That the Commissioner (Exemptions) erred in not granting registration to the Appellant;*
3. *That the Commissioner (Exemptions) failed to appreciate that the Appellant could not produce the original / certified copies of the documents sought for because of bonafide reasons;*
4. *That the Commissioner (Exemptions) erred in holding the Appellant is not a charitable society;*
5. *That the conclusions and inferences of the Commissioner*

(Exemptions) are based on suspicions, conjectures, surmises, extraneous and irrelevant considerations;

6. *That the aforesaid Grounds of Appeal are without prejudice to each other;*
7. *That the reliefs prayed for may kindly be allowed and the order of the Commissioner (Exemptions) may kindly be quashed, set aside, annulled or modified;*
8. *That the Appellant craves leave to vary, alter, amend or add to the aforesaid grounds of appeal before or at the time of hearing of the above appeal.*

6. We have heard the Ld. DR and perused the material available on record. We find the Ld.CIT refused grant of Registration u/s 12AA on the ground that the assessee did not furnish the original Registration Certificate and Memorandum of Association. Further, according to him the objects of the society are for the benefit of the colony residents and not for general public at large, and, therefore are non charitable in nature. A perusal of the order of the CIT shows that he has not given adequate opportunity to the assessee to substantiate as to how such objects are non charitable in nature . considering the totality of the facts of the case and in the interest of justice we deem it proper to resort the issue to the file of the Ld.CIT with a direction to give one more opportunity to the assessee to file the original Registration Certificate along with the Memorandum of Association and Rules and Regulations of the society. He shall also give adequate opportunity to the assessee society to substantiate that the objects of the society which are for the benefit of the colony residents, are charitable in nature and are not non-charitable. The Ld.CIT shall decide the issue afresh and in accordance with law after giving reasonable opportunity of being heard to the assessee. We hold as direct

accordingly. The appeal filed by the assessee is accordingly allowed for statistical purposes.

7. In result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court at the time of hearing itself, i.e. on 19th September, 2017.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Dated: 19/09/2017
*R. Naheed **

Copy forwarded to: **SUCHITRA KAMBLE)**

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

		Date	
1.	Draft dictated on	19/08/2017	PS
2.	Draft placed before author	19/08/2017	PS
3.	Draft proposed & placed before the second member	.2017	JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	20.09. 2017	PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	20.09.2017	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		

