

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. N.K.SAINI, AM AND SH. K.N.CHARY, JM  
ITA No. 6403/Del./2016 : Asstt. Year :**

H.A.M. Welfare & Development Charitable C/o. Hazi Zakir Hussain, Nagina-Kotdwar Road, Kasba Raipur Sadat, Post Najibabad, Tehsil Nagina Bijnor PAN: AABTH4702M	Vs	CIT(E) T-46 V, U.P.State Construction & Infrastructure Development Corporation, Vibhuti Khand, Gomti Nagar Lucknow
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAATZ0343F</b>		

**Appellant by : Sh. Vinay Jain, CA  
Respondent by : Sh. Munish Kumar Gupta, CIT, DR**

<b>Date of Hearing : 20.12.2017</b>	<b>Date of Pronouncement : 22.12.2017</b>
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**ORDER**

**PER N.K. SAINI, A.M.**

This is an appeal filed by the assessee against the order dated 19.10.2016 of the CIT(E), Exemption Lucknow. Only ground raised in this appeal reads as under :

*“1. Rejecting application for registration u/s 12AA of the Income Tax Act, 1961 is absolutely unjustified and injustice because all the related documents required by him were presented before but they overlook of all these presentations and stand on the fixed technical language for rejection.”*

2. During the course of hearing the Id. Counsel for the assessee submitted that the Id. CIT(E) dismissed the application of the assessee for registration u/s 12A(a) of the Income Tax Act, 1961 (hereinafter referred to as the Act) without considering the various details furnished by the assessee and without providing due and reasonable opportunity of being heard.

3. In his rival submission, the Id. DR supported the impugned order passed by the Id. CIT(E).

4. We have considered the submissions of both the parties and perused the material available on the record. In the present case, the Id. CIT(E) while dismissing the application of the assessee observed as under :

*“2. Subsequently, the applicant society was accorded an opportunity of being heard vide this office letter F. No. CIT(Exemp.)/Lko/12A/2016-17/5765 dated 01.09.2016 sent to the applicant on address provided by him via Speed Post (Bearing no. EU648611467IN), calling for specific queries regarding its application for registration u/s 12A for compliance on 15.09.2016, which has been duly delivered to the applicant on 14.09.2016, no one appeared nor was any application for adjournment received. In the interest of natural justice, the applicant society was accorded another opportunity of being heard vide this office letter F.No. CIT(Exempt.)/Lko/12A/2016-17/6140 dated 16.09.2016 sent to the applicant on address provided by him via Speed Post (Bearing no. EU648627983IN), calling for specific queries regarding its application for registration u/s 12A for compliance on 10.10.2016. However. However on that date i.e. 10.10.2016, no one appeared nor was any application for adjournment received. However on 19.10.2016, Shri Zakir Hussain, Trustee appeared and filed part of reply. The applicant could not provide any details regarding any charitable activity undertaken by it. No books of accounts or requisite vouchers could be provided that could establish the claims of the applicant. There is no evidence of charity that can be deciphered from the amterial available on record.”*

5. From above observations of the Id. CIT(E) it is clear that he has decided the appeal without giving proper opportunity of being heard. He simply stated

that the one of the Trustee of the assessee Trust appeared on 19.10.2016 and filed part of reply. In the present case when the Id. CIT(E) himself admitted that part of reply was filed then in our opinion, opportunity ought to have been given to the assessee to furnish the required details and the explanation before rejecting the application for registration u/s 12A(a) of the Act. In the instant case, it is also not clear as to how the Ld. CIT(E) came to the conclusion (in the absence of the complete details and reply filed by the assessee) that there was no evidence of charity that can be deciphered from the material available on record, particularly when he himself admitted that complete reply was not filed by the assessee.

6. We therefore considering the totality of the facts deem it appropriate to remand this issue back to the file of the Ld. CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

7. In the result appeal filed by the assessee is allowed for statistical purposes.

(Order Pronounced in the Open Court on 22/12/2017).

Sd/-  
(K.N.Chary)  
**JUDICIAL MEMBER**

Sd/-  
(N. K. Saini)  
**ACCOUNTANT MEMBER**

**Dated: 22/ 12/2017**

**\*B. Rukhaiyar\***

Copy forwarded to:

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

**ASSISTANT REGISTRAR**

		Date	<u>Initial</u>	
1.	Draft dictated on	20.12.2017		
2.	Draft placed before author	21.12.2017		
3.	Draft proposed & placed before the second member			
4.	Draft discussed/approved by Second Member.			
5.	Approved Draft comes to the Sr.PS/PS			
6.	Kept for pronouncement on	22.12.2017		
7.	File sent to the Bench Clerk			
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.			