

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH 'A', CHANDIGARH**

BEFORE MS. DIVA SINGH, JUDICIAL MEMBER
AND MS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No. 1448/CHD/2017

M/s KDDL Ethos Foundation,
Kamla Centre, SCO 88-89,
Sector – 8,
Chandigarh.
PAN No.-----

Vs.

The CIT (Exemptions),
Chandigarh.

(Appellant)

(Respondent)

Appellant by : Shri Tej Mohan Singh
Respondent By : Dr. Gulshan Raj, CIT(DR)
Date of hearing : 05.04.2018
Date of Pronouncement : 20.04.2018

ORDER

PER DIVA SINGH

The present appeal has been filed by the assessee assailing the correctness of the order u/s 12AA(1)(b)(ii) of the Act dated 24.08.2017 of DCIT (Exemptions) Chandigarh on the following ground :

1) That the Learned Commissioner of Income Tax Exemptions has failed to appreciate the facts and circumstances of the case and has thereby erred in rejecting the application u/s 12 AA of the Income Tax Act 1961 on account of non attendance. The default was on account of final notice received on E-mail which could not be replied.

The appellant Trust satisfies all the conditions for grant of registration and it is therefore prayed that the same may kindly be granted.

2. The ld. AR inviting attention to the impugned order submitted that his limited prayer may be allowed by restoring the appeal for adjudication after hearing the assessee. Addressing the record, it was submitted that on the date of hearing, as mentioned in para 6 of the impugned order, the assessee had sought an adjournment. Thereafter, it has been noted that notice was intimated to the assessee and delivered on 12.08.2012 for the next date of hearing. Para 7 also notes that it was e-mailed to the assessee. However, the assessee, it was stated never received any notice and also he is instructed to inform did not check his e-mail. Accordingly, in the peculiar facts and circumstances of the case, it was his prayer that opportunity of being heard may be granted and matter may be remanded back to the said authority so that the assessee is in a position to comply with the request and place necessary information which was sought. Alternatively, it was his prayer that on the basis of material available on record, the assessee

having filed a Paper Book running into 48 pages may be permitted to argue the appeal at this Forum.

3. The Id. Sr.DR considering the material available on record submitted that he has no objection if the assessee places full facts and submissions before the CIT (Exemptions) as admittedly the order has been passed ex-parte.

4. We have heard the rival submissions and perused the material on record. It is seen that the assessee filed an application in Form-10A seeking registration u/s 12A on 02.02.2017. The stated Aims and Objects of the Trust have been noted by the said authority in para 2. It has also been noted that the Trust has been found by the parent company to redeem its CSR obligations and the Settlers of the Trust were noted to be the Directors of the parent company. The CIT (E) sought details, as set out in para 5 and 6 of the impugned order and in the absence of any effective representation, the impugned order has been passed. Accordingly, in the light of the submissions of the parties before the Bench, accepting the oral undertaking of the Id. AR that the assessee shall not abuse the trust reposed, the impugned order is set aside to the CIT(Exemptions), Chandigarh with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard. The assessee is directed to participate fully and fairly before the said authority and not abuse the trust reposed. It is made clear that in the eventuality of abuse of the same, the CIT(Exemptions) would be at liberty to pass an order on the basis of the material available on record. Said order was pronounced in the Open Court at the time of hearing itself.

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

Order pronounced in the Open Court on 20th April, 2018.

Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

‘Poonam’

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR

Asstt. Registrar
ITAT, Chandigarh.