

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

**BEFORE SH. BHAVNESH SAINI, JUDICIAL MEMBER
AND
SH. O.P. KANT, ACCOUNTANT MEMBER**

ITA No.2641/Del/2015
Assessment Year: 2014-15

M/s. Vishal Bharti Shiksha Samiti, Singhana Road, Narnaul Tehsil, Narnaul Mahendergarh.	Vs.	CIT(E), Chandigarh
PAN :AAATV8329F		
(Appellant)		(Respondent)

Appellant by	Sh. Rajesh Goel, Adv.
Respondent by	Ms. Paramita Tripathi, CIT(DR)

Date of hearing	03.07.2018
Date of pronouncement	04.07.2018

ORDER

PER O.P. KANT, A.M.:

This appeal by the assessee is directed against order dated 18/03/2015 passed by the Ld. Commissioner of Income Tax (Exemption), Chandigarh (in short 'the CIT') rejecting the registration under section 12AA of the Income-tax Act, 1961 (in short 'the Act'). The grounds of appeal raised by the assessee are reproduced as under:

- 1) *That the Ld. CIT (Exemptions) has gravely erred in denying registration u/s 12AA of the Act. to the appellant on the grounds which are perverse. The Ld. CIT has further erred in holding that the funds of the society were not specified to be invested in the specified modes although no valid ground was available to the Ld. CIT. The order of the Ld. CIT is*

wholly against law and facts and is a mere pretence to deny registration u/s 12AA.

- 2) *That the learned CIT (Exemption) has wrongly relied upon the report of the ITO (Exemptions) and wrongly holding that the provisions of the Section 11(5) of the Act were not specified to be invested in charitable purposes whereas the appellant is running an educational institution only and no other object was in existence. The order is based on surmises and conjectures although no valid grounds were available to the authority for not granting registration to the appellant. The orders of the Ld. CIT may therefore kindly be quashed and registration may be directed to be granted to society u/s 12AA of the Act and oblige.*
- 3) *That the gross receipts of the society were below l crore and therefore the society was always exempted from tax by the Income Tax Authorities and there was no bar for registration in view of Section 10(23C)(iiiad)*

2. Briefly stated facts of the case are that on an application filed by the assessee before the CIT in Form No.10A on 23/09/2014 for registration of the assessee in terms of section 12AA of the Act, an opportunity of being heard was given to the assessee. The CIT also called for a report from the relevant Assessing Officer. On the basis of the report, the Ld. CIT concluded that the assessee has not furnished evidences of investing the funds as required under the provisions of section 11(5) of the Act and accordingly the registration under section 12AA was denied to the assessee. Aggrieved with the impugned order of the CIT, the assessee is in appeal before the Tribunal.

3. Before us, the Ld. counsel submitted that assessee has filed all the documents including copy of by-laws of the society, books of accounts, vouchers and bank accounts etc., however, the Ld.

CIT has denied the registration without any valid reasons and without even providing the copy of the report of the Assessing Officer relied upon by the Ld. CIT for rejecting the registration.

4. The Ld. DR, on the other hand, submitted that CIT has validly rejected the registration under section 12AA of the Act as assessee has not complied with the provisions of the Act.

5. We have heard the rival submissions and perused the relevant material on record. We note that the CIT has denied the registration only on the ground that no evidence in respect of investment of funds as required under provisions of section 11(5) of the Act were submitted before the Assessing Officer. However, we find from the impugned order that, before rejecting the application of the assessee for registration, the assessee has not been confronted with the report of the Assessing Officer and thus no opportunity has been provided to the assessee to explain on an adverse observation of the Assessing Officer. It is not material what opportunity was provided to the assessee by the Assessing Officer. The proceedings under section 12AA of the Act are before the CIT and he was required to give opportunity to the assessee before drawing adverse inference on the basis of the report of the Assessing Officer. The action of the Ld. CIT of not providing the opportunity to the assessee before rejecting the registration under section 12AA of the Act, is in violation of the principle of natural Justice.

6. In view of the above facts, we feel it appropriate to set aside the impugned order and restore the matter to the file of the Ld. CIT for providing opportunity of being heard to the assessee and decide the issue of granting registration under section 12AA of

the Act, afresh. Accordingly, the grounds raised by the assessee are allowed for statistical purpose.

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

Decision is pronounced in the open court on 4th July, 2018.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 4th July, 2018.

RK/-(D.T.D.)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi