

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'B' CHANDIGARH

श्रीमती दिवा सिंह, न्यायिक सदस्य एवं डा. बी.आर.आर. कुमार, लेखा सदस्य
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R.KUMAR, AM

आयकर अपील सं./ITA No. 1613/CHD/2017
(Under Section 12AA)

M/s Shree Sanatan Dharam Mandir Welfare Society, # 1661, Sector 80, SAS Nagar, Mohali.	बनाम VS	The CIT (Exemptions), Chandigarh.
स्थायी लेखा सं./PAN No: AAABS7825H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

राजस्व की ओर से/ Revenue by : Shri Tej Mohan Singh
निर्धारित की ओर से/Assessee by : Smt. Veena Joshi, CIT-DR

सुनवाई की तारीख/Date of Hearing : 16.10.2018
उद्घोषणा की तारीख/Date of Pronouncement : 28.11.2018

आदेश/ORDER

PER DIVA SINGH

The present appeal has been filed by the assessee assailing the correctness of the order dated 27/09/2017 of CIT (Exemptions) Chandigarh under Section 12AA (1)(b)(ii) of the Income Tax Act on the following grounds :

- 1. That the Ld. Commissioner of Income Tax has erred in law as well as on facts in rejecting registration under section 12AA of the Act which is arbitrary & unjustified.*
- 2. That the registration has been refused only on the basis of suspicion, conjectures and surmises as is evident from the various unfounded findings as enumerated in the body of the order which is not permitted under the Law and as such the order refusing registration is illegal, arbitrary and unjustified.*

2. A perusal of the record shows that the assessee had moved an application in form No. 10 A seeking registration u/s 12A of the Income Tax Act, 1961. The application reveals that the society is an ongoing entity that has been in operation since 12.11.2014. The CIT (Exemptions) noted that the stated aims and objects of the society are to take all necessary and suitable steps for the development and promotion of the society; to build/construct the Temple/Mandir and other Religious, educational institutions and Dharamshala at Sector 80 & surrounding area of S.A.S. Nagar, Mohali; to celebrate religious Utsavs & Festivals;

to co-operate and form alliance with other religious, charitable and welfare bodies, having similar objects; to work for the poor sections of the society and work for their development i.e. providing them the basic necessities of life such as food, clothing, shelter, education etc.; to work for women & children welfare, to give financial & other assistance to widows & orphans; to promote education and culture in the society by providing free education to needy children's & other people and provide them with free books, uniforms, shoes, bags etc.; to eliminate social moral evils and to take up and promote activities that promote general well-being among (he society; to work on other matters of social welfare as decided by society from time to time; to collect funds/articles/donations and subscriptions as may be decided by the society from time to time and to arrange & receive aids and grants from the Govt., Municipal committee, Firms, Companies & all other organizations. Considering the facts, the CIT(E) rejected the application for the reasons set out in para 6 to 9 of the order the order. The correctness of the said order is under challenge in the proceedings. The assessee has filed a paper book running into 153 pages.

3. The Ld. CITDR Ms. Veena Joshi made an oral request seeking time to go through the paper book filed.

4. The Ld. AR addressing the paper book filed submitted that the relevant facts and evidences made available to the CIT (Exemptions) which have not been taken into consideration by the said authority while passing the order have been filed. Referring to the order, it was submitted, that the CIT (E) has taken note of the fact that on the date of hearing the assessee neither appeared nor sought any adjournment and accordingly time was granted and on the next date some written submissions, he noted, were filed on behalf of the assessee by Sh. Kamal Kaushik Sr. Vice President of the society. Thus, the order passed without referring to facts, it was submitted, is challenged. Considering the record, the CIT-DR stated that the matter may be remanded as otherwise, she has not been able to go through the Paper Book.

5. We have heard the submissions and perused the record. It is seen that the CIT (E) rejected the application holding as under :

“6. Neither did any one attend on the date fixed nor was any request for adjournment received. In order to follow the principle of natural justice another opportunity was accorded to the applicant and matter was fixed for 12.09.2017. On this date Sh. Kamal Kaushik, Senior Vice President of the Society attended and filed written submission in response to above

noted queries. Subsequently based on the material on record the following additional query were raised and was requested to submit the reply on 22.09.2017 :

- (i) *Details of payments made for the allotted piece of land from GMADA.*
- (ii) *Copy of allotment order reveals that the allotted land is for Mandir. Explanation regarding the scope for pursuance of other stated objects like building of educational institutions and Dharamshala etc. which in that case remains merely ostensible objects that have been incorporated in the 'aims & objects of the Society'.*

7. In the context of the arguments of the parties raised and addressing the departmental request we note that the impugned order has been passed on the basis of written submissions and documents filed before the said authority and the assessee did not participate in the proceedings by way of any personal appearance. Accordingly, evidences and facts relevant for determining the issue, it appears, may not have been taken cognizance of. At this stage we do not deem it appropriate to comment upon the correctness of the order or the sufficiency of evidences filed as the issue is being restored back. In view thereof after hearing the submissions of the parties before the bench it is deemed appropriate to set aside the impugned order back to the file of the CIT (Exemptions) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity. While so directing, the assessee in its own interest is advised to ensure full and proper participation before the said authority and not to abuse the trust reposed. Said order was pronounced in the Open Court at the time of hearing itself.

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

Order Pronounced in the Open Court on 28.11.2018.

Sd/-

Sd/-

(डा. बी.आर.आर. कुमार)
(Dr. B.R.R. KUMAR)

लेखा सदस्य/ Accountant Member

“पूनम”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant -
2. प्रत्यर्थी/ The Respondent -
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

(दिवा सिंह)

(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar

ITAT,Chandigarh.