

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G' NEW DELHI**

**BEFORE
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.5033/Del/2016

Assessment Year: -----

State Bank of India RSETI Society, SBI, Admin Office, 1-New Cantt. Road, Dehradun. (PAN: AAJAS5727J)	vs	CIT(Exemptions), T.C. 46V, U.P. State Construction & Infrastructure Development Corporation, Vibhuti Khand, Gomti Nagar, Lucknow-226010
Appellant		Respondent

**Appellant by: Shri Baldev Raj, CA
Respondent by : Shri S.S. Rana, CIT DR**

**Date of hearing : 6.2.2019
Date of pronouncement : 13.02.2019**

ORDER

PER SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER:

This appeal is preferred by the assessee against the order dated 2.8.2016 passed by the ld. Commissioner of Income Tax(Exemptions), Lucknow and challenges the action of the ld. Commissioner of Income Tax(E) in rejecting the assessee's application for approval u/s 80G of the Income Tax Act, 1961 (hereinafter called 'the Act').

2.0 The ld. AR drew our attention to para 2 of the impugned order and submitted that the assessee's application had been dismissed *ex parte* on the ground that the notice for hearing had been returned unserved to the office of the ld. Commissioner of Income Tax(E) with the noting 'at the aforementioned address, no society by the mentioned name is traceable'. The ld. AR submitted that apparently there seems to be some kind of mistake on the part of the postal department because the address which has been mentioned in the application was correct. The ld. AR also submitted that in the interest of substantial justice, the matter required to be re-examined by the ld. Commissioner of Income Tax(E) and the assessee be allowed to furnish relevant documents before the ld. Commissioner of Income Tax(E) as well as be provided with an adequate opportunity to present its case.

2.1 In response, the ld. C.I.T. DR submitted that the ld. Commissioner of Income Tax(E) had decided the issue on merits even though it was decided *ex parte qua* the assessee and, therefore, there was no requirement for the assessee to be provided with another opportunity. The ld. C.I.T. DR placed reliance on the findings of the ld. Commissioner of Income Tax(E)

and vehemently argued that the appeal of the assessee deserved to be dismissed.

3. We have heard the rival submissions and perused the material available on record. It is undisputed that the assessee's application for approval u/s 80G of the Act was dismissed without the assessee being able to avail the opportunity of being heard in this regard. It is undisputed that the notice for hearing was returned unserved. Further, in absence of opportunity, the assessee could not corroborate its claim with respect to approval u/s 80G of the Act. Accordingly, in the interest of justice, we deem it a fit case to be restored to the file of the Ld. Commissioner of Income Tax(E) for the purpose of deciding it afresh after providing adequate opportunity to the assessee to present its case. Accordingly, we restore the issue to the file of the Ld. Commissioner of Income Tax(E) with the direction to provide another opportunity to the assessee and thereafter pass the order in accordance with law.

4. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 13th FEBRUARY, 2019.

Sd/-

Sd/-

**(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: 13th FEBRUARY, 2019
'GS'

Copy forwarded to: -

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

True Copy

By Order

ASST. REGISTRAR

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	