

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI A.D JAIN, VICE PRESIDENT AND
SHRI T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.464/LKW/2017

A.Y. N.A.

Govind Ram Sindh Education Society, 421, Maharaj Nagar, Lakhimpur Kheri U.P. PAN AACAG5982A (Appellant)	Vs.	CIT(Exemption), Lucknow (Respondent)
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Appellant by	Shri Abhinav Mehrotra, Advocate
Respondent by	Shri Sushil Kumar Madhuk, CIT DR
Date of hearing	01/03/2019
Date of pronouncement	08/03/2019

ORDER

PER: A.D. JAIN, VICE PRESIDENT:

This is an appeal filed by the assessee against the order dated 10/02/2017 passed by Id. CIT (Exemption) rejecting the registration u/s 12AA of the I.T. Act.

2. The assessee's appeal is delayed by eighty seven days. An application for condonation of delay has been filed, accompanied by an affidavit of the Manager of the assessee society. The contents of the application for condonation of delay are as under:

"1. *That the impugned order of Ld. CIT (Exemption) dt. 10.02.2017 was received by the assessee on 27.02.2017.*

2. *That the appeal was under preparation and was ready to be filed on 25.03.2017.*
3. *That Mr. Vishal Agarwal, Accountant, under the employment of the instant assessee, was entrusted with the job of filling the appeal, however due to certain unpleasant circumstance (breverment) in the family of Mr. Vishal Agarwal, the same had to rush back to his native place and forgot to file the appeal.*
4. *That there being no communication available with Mr. Vishal Agarwal, the assessee remained under a bonafide belief that that the appeal has been filed by Mr. Vishal Agarwal in due course. However upon his return and resumption of official work. Mr. Vishal Agrawl, regretfully informed that he inadvertently omitted to file the appeal.*
5. *That above caused a delay of approximately 87 days. This delay, caused due to the unfortunate circumstances, beyond the control of the assessee, deserves to be condoned and ii is prayed that the appeal may kindly be heard on merits.”*

3. In view of the above contents of the application for condonation of delay, duly supported by the affidavit of the Manager of the assessee society, it is seen that the assessee was prevented by sufficient cause from filing the appeal in time. The delay is inadvertent. Accordingly, the delay of eighty seven days in filing the appeal is condoned.

4. The facts of the case, in brief, are that the assessee society applied for registration u/s 12A(a) of the Act with CIT (Exemption) vide application dated 30/08/2016. The Id. CIT (Exemption) issued a letter

dated 05/01/2017 to the assessee calling for specific queries regarding the application for registration u/s 12A for compliance on 10/02/2017. However, none appeared on 10/02/2017 nor any adjournment application was filed, therefore, Id. CIT (Exemption) rejected the application of the assessee for registration u/s 12A(a) of the Act on the ground that sufficient material required for formation of satisfaction has not been produced.

5. Heard. From the order of Id. CIT (Exemption), it is apparent that the Id. CIT (Exemption) had issued only one letter dated 05/01/2017 calling for certain queries, documents/clarifications. The assessee could not file books of account, Bank statement and vouchers and the CIT (Exemption) passed the order and rejected the application of the assessee for registration u/s 12A of the Act. In these facts, we feel that one more opportunity should be given to the assessee to explain its case before the Id. CIT (Exemption). We are of the view from the facts of the case that the assessee has not been given proper and sufficient opportunity before disposing of the application of registration by the Id. CIT (Exemption). We, therefore, in the interest of justice, set aside the order of the Id. CIT (Exemption) and restore the matter to his file with the direction to consider the application of the assessee for registration u/s 12A afresh after giving proper and sufficient opportunity of being heard to the assessee. The assessee is also directed to be

present on the date of hearing and provide the material / clarification as asked for by the Id. CIT (Exemption).

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

(Order pronounced in the open court on 08/03/2019)

Sd/-
(T.S. Kapoor)
Accountant Member

Sd/-
(A.D. Jain)
Vice President

Aks –
Dtd. 08/03/2019

Copy of order forwarded to:

<i>(1) The appellant</i>	<i>(2) The respondent</i>
<i>(3) Commissioner</i>	<i>(4) CIT(A)</i>
<i>(5) Departmental Representative</i>	<i>(6) Guard File</i>

By order

Assistant Registrar