

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "D": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA.No.4755/Del./2015

Paints Trade Welfare Trust, Meerut. PAN AABTP8804C	vs.,	The CIT (Exemptions), Lucknow.
(Appellant)		(Respondent)

For Assessee :	Shri Vinod Kumar Goel, Advocate.
For Revenue :	Shri J.K. Mishra, CIT-D.R.

Date of Hearing :	03.04.2019
Date of Pronouncement :	03.04.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by assessee has been directed against the Order of the Ld. CIT(E), Lucknow, Dated 08.06.2014, rejecting the application for registration under section 12AA of the Income Tax Act, 1961, on the following grounds :

- 1. "That CIT (Exemptions), Lucknow has not consider the written reply dated 20-10-2014, which clearly says that copy of books of accounts was attached along with written reply duly received by CIT,*

Meerut. Therefore, exemption refuse on account of para no. 3 that books of accounts are not produced is unjustified and not according to law.

- 2. That the assessee's counsel after verification on phone appeared in the office at Lucknow on 10/04/2015 and assessee's reply placed on file. Therefore, on the date fix for 04-06-2015 the assessee has filed written reply before CIT (Exemptions), Lucknow but it appears due to the negligence of staff reply filed by the assessee is not placed on records. Hence, rejection of the trust U/s 12A is against the facts and law and was bar by limitation.*
- 3. That CIT (Exemptions), Lucknow ignored the I.T.A.T. finding that trust turnover is less than 25,00,000/-. Hence, proviso of section 2(15) is not applicable, the CIT (Exemptions), Lucknow has not given any finding and ignored this direction given by I.T.A.T. Hence, order passed by CIT (Exemptions), Lucknow is against the I.T.A.T. directions”.*

2. It is noted in the impugned order that Assessee Trust filed an application for registration under section 12AA of the I.T. Act, which was rejected by the Ld. CIT(E) Meerut. The assessee preferred an appeal before the ITAT, Delhi Bench and the Tribunal vide Order Dated 29.10.2013 in ITA.No.757/Del./2012 restored the matter to the file of Ld. CIT(E) to examine the issue denovo, after examining the assessee's books of account in terms of the observations made in the order. The Ld. CIT(E) noted that the case was fixed for hearing and notice have been issued to the assessee, but, none attended on behalf of the assessee. Thereafter, an adjournment application was received which was allowed. Thereafter, Counsel for Assessee attended and filed written submissions which were taken on record. The matter was adjourned to 21.05.2015, but, none attended. Thereafter, notice was issued for 04.06.2015 and on that date also none attended the proceedings before the Ld. CIT(E). The Ld. CIT(E), therefore, noted that assessee has not made any compliance and did not produce the books of account/documents for examination/verification. In the

absence of the required documents, application for registration was again rejected vide impugned order dated 08.06.2014. It appears that this date is incorrect because at the end of the impugned order, the Ld. CIT(E) has mentioned the date of Order to be 08.06.2015.

3. Learned Counsel for the Assessee submitted that the Ld. CIT(E) has not considered reply of the assessee which clearly shows that copy of the books of account was attached along with the same. He has submitted that due to negligence of the staff, reply filed by assessee was not placed on record. He has undertaken before us that assessee would produce books of account and all other details before the Ld. CIT(E) for his examination. Therefore, the matter may be remanded to the Ld. CIT(E) for fresh consideration, to which, the Ld. D.R. did not object to the same.

4. Considering the facts of the case in the light of submissions of both the parties and the fact that in the first round of proceedings the Tribunal restored the matter back to the file of Ld. CIT(E) to examine the issue denovo, after examination of the books of account, we are of the view that

the matter requires reconsideration at the level of the Ld. CIT(E). The assessee explained that proper reply was filed and copies of the books of account were attached along with the same, but, inadvertently, the reply of the assessee have not been placed before the Ld. CIT(E). Learned Counsel for the Assessee, therefore, undertaken to produce the books of account and other documents before the Ld. CIT(E) for fresh examination. In view of the undertaken given above, we set aside the impugned order and restore the matter in issue to the file of Ld. CIT(E), Lucknow with a direction to re-decide the issue afresh, as per Law, by giving reasonable, sufficient opportunity of being heard to the assessee. The assessee is directed to produce books of account and other details before the Ld. CIT(E) for his consideration and passing the order afresh. With these directions, the appeal of Assessee is allowed for statistical purposes.

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

Order pronounced in the open Court.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 03rd April, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "D" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
DELHI.