

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

**BEFORE SHRI T. S. KAPOOR, ACCOUNTANT MEMBER
AND MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.4676/Del/2018
Assessment Year:N.A.

Search Talent League, A-108, Sector-4, Noida. PAN:AAUTS 4133 J (Appellant)	Vs.	C.I.T. (Exemption), Lucknow. (Respondent)
--	-----	---

Appellant by	Shri M. P. Rastogi, Advocate
Respondent by	Shri S. S. Rana, CIT, (DR)
Date of hearing	10/04/2019
Date of pronouncement	12/04/2019

ORDER

PER T. S. KAPOOR, A.M.

This is an appeal filed by the assessee against the order of Learned CIT(Exemption), Lucknow dated 14/05/2018. In this appeal the assessee has raised the following grounds:

"1. That the CIT (Exemption) ought not to have refused the registration to a newly created society, without pointing out any object of the society as non-charitable on the ground of non-genuineness of the activities and consequently the order of CIT (Exemption) u/s 12AA of the IT Act is arbitrary and bad in law.

2. That the CIT (Exemption) ought not to have denied the registration u/s 12AA of the IT Act to the newly created assessee-society, the activities have yet to be undertaken, on the ground of nongenuineness of the activities."

2. At the outset, Learned A.R. submitted that assessee had applied for registration u/s 12AA of the Act on 28/12/2017 and the assessee had not

carried out any activities as yet and at the time of granting registration u/s 12A of the Act the Learned C.I.T. (Exemption) is entitled to examine only the objects of the assessee which undisputedly are charitable in nature which is apparent from the copy of trust deed placed at pages 23 to 32 of the paper book. Learned A.R. submitted that assessee was issued notice for hearing which was fixed for 14/05/2018 and on 14/05/2018 Learned C.I.T. (Exemption) passed order against the assessee. It was again submitted that at the time of granting registration u/s 12A the C.I.T. (Exemption) would only examine the objects and genuineness of the activities. The reliance was placed on the order of Hon'ble Allahabad High Court in the case of Hardayal Charitable and Educational Trust vs. CIT [2013] 355 ITR 534 (All). Further the reliance was placed on an order of Hon'ble Allahabad High Court in the case of Fifth Generation Education Society vs. CIT 185 ITR 634 (All).

3. Learned D.R., on the other hand, submitted that despite having given adequate opportunity, no books of account, vouchers, bank statement or financial statements were produced and therefore, in the absence of above documents, Learned CIT (Exemption) was not able to verify the genuineness of the activities of the trust. It was submitted that Learned CIT (Exemption) has relied on various decisions for rejecting the application of the assessee.

4. We have heard the rival parties and have gone through the material placed on record. We find that undisputedly the assessee was given opportunity of being heard and the date was fixed on 14/05/2018. The assessee was required to comply to the questionnaire dated 02/04/2018 placed at pages 32 to 34 of the paper book. The assessee part replied to the questionnaire, a copy of which is placed at pages 35 to 48 of the paper book. Learned CIT (Exemption), without confronting the assessee with his objections, passed the order against the assessee which is not justifiable as rules of natural justice requires that before passing an order the assessee

should have been heard on his objections. Moreover, we find that the case law relied on by Learned A.R. states that at the time of granting registration, the Learned CIT (Exemption) is only entitled to examine the objects and genuineness of the activities. In the present case we find that the assessee was not given proper opportunity therefore, we deem it appropriate to remit the issue back to the file of Learned CIT (Exemption) who should pass order afresh after hearing the assessee and after going through the judgments relied on by Learned A.R.

5. In the result, the appeal is allowed for statistical purposes.

(Order pronounced in the open court on 12/04/2019)

Sd./
(SUCHITRA KAMBLE)
Judicial Member

Sd./
(T. S. KAPOOR)
Accountant Member

Dated:12/04/2019

*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T.,