

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR**

BEFORE SHRI N.K.SAINI, VICE PRESIDENT AND
SHRI A. T. VARKEY, JUDICIAL MEMBER

ITA No.39/Jodh/2019
(ASSESSMENT YEAR- 2018-19)

Pacific Academy of Higher Education & Research University, Village Debari, Tehsil-Girwa, Udaipur, Raj-313024 PAN: AAAJP1465G	Vs	Commissioner of Income-tax (Exemption), Jaipur, IIIrd floor, Kailash Heights, Lal Kothi Tonk Road, Jaipur, Rajasthan.
(Appellant)		(Respondent)

Appellant By	N o n e
Respondent By	Sh. K. C. Badhok, CIT, DR
Date of hearing	07.05.2019
Date of Pronouncement	07.05.2019

ORDER

PER A. T. Varkey, J.M.

This is an appeal preferred by the assessee against the order of Ld. Commissioner of Income Tax (Exemption), Jaipur dated 29.01.2019 wherein the Ld. CIT(E) rejected the application filed by the assessee on 20.07.2018 in Form No. 10G seeking approval u/s. 80G(5)(vi) of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

2. At the outset itself, it was brought to our notice that the impugned order is an ex parte order. We note that the Ld. CIT(E) issued a letter/notice dated 21.08.2018 directing the assessee to submit certain documents/explanations by 12.09.2018 and also to produce the original certificate u/s. 12AA/10(23C) on that date. Since no compliance was made by the assessee/applicant, the Ld. CIT(E) gave

one more opportunity by letter dated 19.12.2018 as final opportunity but according to Ld. CIT(E) neither anybody appeared nor any reply was filed by the assessee applicant. So, taking into consideration that there is a limitation of time for passing the order, the Ld. CIT(E) rejected the application of the assessee/applicant. Therefore, the main grievance of the assessee/applicant is that no proper opportunity was granted to the assessee/applicant to represent its case before the Ld. CIT(E) and, therefore, there is a violation of natural justice.

3. Per contra, the Ld. CIT, DR contended that the assessee/applicant never bothered to file documents/present the case before the Ld. CIT(E) and, therefore, it was rightly rejected by the Ld. CIT(E).

4. After hearing the Ld. CIT, DR, we note that the Ld. CIT(E) has rejected the application for approval u/s. 80G of the Act on the ground that assessee did not comply with the notices issued by him. Since the order has been passed without hearing the assessee/applicant, there is a violation of Natural Justice so, we are inclined to set aside the order of the Ld. CIT(E) and direct him to pass an order de-novo after affording reasonable opportunity of being heard to the assessee. Needless to say that the assessee has to be either present itself or through its representative with the documents sought by the Ld. CIT(E) during hearing, so that he can adjudicate the application on merits. With the aforesaid observation, the impugned order of Ld. CIT(E) is set aside and the matter is restored to the file of Ld. CIT(E) to adjudicate afresh after affording reasonable opportunity of being heard to the assessee. Appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 7th May, 2019

Sd/-
(N.K. SAINI)
Vice President

Sd/-
(A. T. Varkey)
Judicial Member

Dated : 07.05.2019

“J.D. Sr. PS.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, Jodhpur
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order

सहायकपंजीकार/ Assistant Registrar