

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

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
AND  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**I.T.A. No.5858/Del/2016  
Assessment Year: -**

**Shree Vaishnav Aggarsain Gaushala, vs Commissioner of Income-tax(E),  
Agroha, Sirsa Road, Agroha, Sector 17E, Chandigarh,  
Hisar.  
PAN: AARFS8404K.**

(Appellant)

(Respondent)

Appellant by: Shri V. Raj Kumar, Advocate  
Respondent by: Shri S.S. Rana, CIT DR

**Date of hearing: 18.07.2019  
Date of Pronouncement: 24.07.2019**

**ORDER**

**PER K. NARASIMHA CHARY, JM**

Aggrieved by the order dated 27.09.2016 u/s 12AA of the Income-tax Act, 1961 ("the Act") by the Commissioner of Income- tax (Exemption) refusing the request of the assessee to grant fresh registration, assessee preferred this appeal.

2. Case of the assessee is that they were granted registration u/s 12AA of the Act way back on 1.4.1979 but they lost the same and could not preserve a copy thereof. The assessee, therefore, applied for fresh registration for issuance of a duplicate certificate.

3. Ld. CIT(A) rejected the application on the ground that there is no evidence to show the loss of earlier certificate, no FIR has been registered and the Act does not provide for re-issuance of old certificate, which is not traceable.

4. Hence, the assessee preferred this appeal stating that there is no dispute on the part of the revenue as to the grant of registration u/s 12AA of the Act to the assessee way back on 1.4.1979. As a matter of fact, al through these years the assessee has been enjoying the exemption u/s 80G from time to time and the same is evidenced from the order dated 21.5.2018 passed by the CIT(A), Hisar in Appeal No.87/HSC/16-17 in case of assessee when the AO refused such benefit on the ground that no certificate u/s 12AA was produced before him.

5. We have gone through the record and heard the counsel on either side. As rightly contended by the assessee, there is no dispute as to the original issuance of certificate u/s 12AA of the Act to the assessee way back on 1.4.1979. Assessee claims that they have lost the original certificate and no copy thereof is available with them. When the ld. AO insisted for production of certificate u/s 12AA of the Act on the face of the record showing the extension of the benefit of exemption u/s 80G to the assessee from time to time, the assessee had to secure either the certificate or copy thereof.

6. It is the submission on behalf of the assessee that he tried to secure a copy of the certificate dated 1.4.1979 by several methods including by applying under the Right to Information Act but all their attempts went in vain because of non traceability of the record. Letter dated 2.2.2016 written by the Office of the CIT(E), Chandigarh to the PCIT, Patiala requesting to send the relevant folder relevant to the Registration u/s 12AA in the case of the assessee also does not seems to have yielded any result. If the record is available with the Department, obviously, there cannot be any difficulty in issuing a copy thereof. When the record is not available with the Department itself, the observations of the ld. CIT(A) to the effect that this being a beneficial clause, the onus was entirely on

the assessee to not only ensure safe keeping of the so called registration certificate but also adduce all evidence in respect of claim of loss which in the instant case has not been done. In one breath, ld. CIT(A) feels that the Act does not provide for issuance of old certificate that is not traceable and in the same breath, ld. CIT(A) look for evidence for loss to issue the same. It appears to be inconsistent view taken by the ld. CIT(A).

7. Now that it is clear that the record is not available even with the Department and, therefore, it does not appear to be worth directing the revenue for issuance of a certificate thereof. We, therefore, having regard to the taxability of the circumstances direct the ld. CIT(A) to entertain the claim of the assessee and to consider the same having regard to the fact that the assessee cannot be remediless and they do not stand to gain by pleading loss of the certificate having enjoyed the exemption for about 40 years.

8. In the result, appeal of the assessee is allowed.

**Order pronounced in the Open Court on 24<sup>th</sup> July, 2019.**

Sd/-

sd/-

(O.P. KANT)  
ACCOUNTANT MEMEBR

(K. NARASIMHA CHARY)  
JUDICIAL MEMBER

Dated 24<sup>th</sup> July, 2019.

VJ

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

By order

## Asstt. Registrar

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