

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA.No.3971/Del./2019
Under Section 12AA of Income Tax Act, 1961

M/s. My Whole Child Trust, New Delhi. PAN AAFTM7100C C/o. Saubhagya Agarwal, K-185/14, Surya Plaza, 1 st Floor, Near Surya Hotel, New Friends' Colony, New Delhi – 110 025.	vs.,	The Commissioner of Income Tax (Exemptions), 26 th Floor, E-2 Block, Pratyaksh Kar Bhawan, Civic Center, J.L.N. Nehru Marg, Minto Road, New Delhi. PIN – 110 002.
(Appellant)		(Respondent)

For Assessee :	Shri Satyajit Goel, C.A.
For Revenue :	Ms. Pranita M. Biswas, CIT-DR

Date of Hearing :	13.08.2019
Date of Pronouncement :	14.08.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(E), New Delhi, Dated 26.04.2019, rejecting the application of the assessee under section 12AA of the Income Tax Act, 1961.

2. Briefly the facts of the case are that assessee filed application for registration under section 12AA in prescribed form. The assessee was requested to file certain documents in support of application for registration. The Ld. CIT(E) noted that on the date of hearing no one appeared from the side of the assessee and no reply was filed. Thereafter, further letter was issued to the assessee to submit the requisite details and the assessee was directed to make compliance. On the date fixed also no reply has been filed. Further opportunity was given to the assessee to submit the requisite details, but, no details have been filed by the assessee. Thereafter, Counsel for Assessee appeared and he was also requested to furnish the details and evidences in support of activities undertaken up to March, 2019 and file copy of provisional balance sheet for financial year 2018-19 on 18.04.2019. On 18.04.2019 the Counsel for Assessee appeared and submitted details. The Ld. CIT(E) noted that assessee has not undertaken itself any activity independently. All the activities undertaken are through the Company in which trustee is a director of the Company

having same name i.e. My Whole Child. Therefore, it cannot be possible to differentiate the activity undertaken by the assessee and by the company having same name i.e. My Whole Child as well as having same Trustee and Director respectively. The assessee was given further opportunity to furnish details and evidences. The Ld. CIT(E) considering address of the Trust and Company is the same and that there is no difference in the eyes of general public between Trust and the Company, therefore, the reasonableness of the transactions between both the entities could not be ascertained and the Ld. CIT(E) accordingly rejected the application under section 12AA of the I.T. Act, 1961.

3. We have heard the Learned Representative of both the parties and perused the material available on record.

4. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and referred to the Trust Deed, copy of which is filed in the paper book and submitted that assessee trust was established for the advancement and welfare of children with special need and

to increase awareness, provide education and health support families with children and special need etc., which are charitable in nature. He has submitted that assessee filed various details and documents before the Ld. CIT(E), copies of which are filed in the paper book. The assessee also filed provisional account and donation receipts, photo copies of activities of the assessee trust in the paper book. He has submitted that all the details were furnished before Ld. CIT(E) which have not been examined on merits.

5. On the other hand, Ld. D.R. relied upon the impugned order.

6. After considering the rival submissions, we are of the view that the matter requires reconsideration at the level of the Ld. CIT(E), New Delhi. According to Section 12AA of the I.T. Act, the Ld. CIT(E) is required to satisfy himself about the objects of the Trust and genuineness of its activities. The assessee produced copy of the Trust Deed, accounts and other material before the Ld. CIT(E) to show that its objects are charitable in nature and has been undertaking genuine activities towards the objects of the

trust. The Ld. CIT(E) has however considered the case of assessee with reference to the Company having similar name M/s. My Whole Child. The Ld. CIT(E) is required to satisfy himself about the objects of the assessee trust and its activities only. He cannot go beyond it and to see details of similar Company which might be formulated by similar Trustees. It, therefore, appears that Ld. CIT(E) has not considered the issue in correct prospective in accordance with the provisions of Law in the light of material on record. We are, therefore, of the view that the matter requires reconsideration at the level of the Ld. CIT(E) with a direction to pass the Order afresh in accordance with law, by giving reasonable, sufficient opportunity of being heard to the assessee. He shall decide the matter expeditiously within four months of this order.

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

Order pronounced in the open Court.

Sd/-
(B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 14th August, 2019

VBP/-

Copy to

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

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
Delhi.