

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. B.R. BASKARAN, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.458/Asr/2019
Assessment Year: Nil

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| Gurudwara Sri Guru Arjan Dev Ji Baba Mal Malri V.P.O. Malri, Nakodar [PAN:AACAG 5651L] (Appellant) | Vs. | CIT, (Exemption) Chandigarh (Respondent) |
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Appellant by : Sh. Ashray Sarna (Ld. CA)
Respondent by: Sh. Sandeep Chauhan (Ld. CIT- DR)

Date of hearing: 29.08.2019
Date of pronouncement: 09.10.2019

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Applicant/Appellant against the order dated 26.04.2019 impugned herein passed by the Ld. CIT(Exemptions), Chandigarh, u/s 12AA(1)(b)(ii) of the I.T. Act, 1961 (hereinafter called as 'the Act') whereby the Ld. CIT(Exemptions) rejected the application of the Applicant on non-furnishing of reply to the questionnaire sent on 09/04/2019 by the Ld. CIT(E) through e-mail to the Applicant society, by which the Applicant was asked to furnish further clarifications/details as mentioned in para No.6 of the order by 15.04.2019.

2. From the impugned order, it reflects that the Ld. CIT(A) in para No.7 of its order finally concluded that on the fixed date, neither any reply to the above mentioned queries has been submitted to this office nor any attempt has been made by the applicant to put forth its views. In the absence of any reply in response to the above queries raised by this office, the queries raised in the matter remained unexplained. All of the above, including the unresponsive attitude of the applicant, clearly leads one to conclude that the entity does not seem to be interested to pursue its application. It is entirely possible that it has no answer to the queries raised. In view of this, the application for registration u/s 12AA is accordingly rejected.

3. The Applicant society before us, has filed an affidavit of the president of the society and in the affidavit it is submitted that last questionnaire was issued on 09.04.2019 which was received in e-mail of the society office i.e., dsiloffice@gmail.com and the information was sought to be furnished by 15.04.2019, however, during that period the Applicant did not go through e-mail thoroughly and therefore it failed to provide the requisite information and ultimately application for registration was rejected for non-furnishing of information. In our considered view the contention of the Applicant seems to be genuine which is also supported by affidavit of the president of the society. Although the instant appeal of the Applicant is liable to be dismissed in order to give effect to the principle that law does not assist the person who is inactive and sleeps over his rights by allowing them when challenged or disputed to remain dormant, without asserting them in a court of law. The, principle

which forms the basis of this rule is expressed in the maxim **vigilantibus, non dormientibus, jura subveniunt** (Law assists those who are vigilant and not those who sleep over their rights), but even a vigilant litigant is prone to commit mistakes. As the aphorism to err is human and is more a practical notion of human behaviour than an abstract philosophy, the unintentional lapse on the part of a litigant should not normally cause the doors of the judicature permanently closed before him. The effort of the court should not be one of finding means to pull down the shutters of adjudicatory jurisdiction before a party who seeks justice, on account of any mistake committed by him, but to see whether it is possible to entertain his grievance if it is genuine , therefore, considering the facts that the assessee society was prevented to file the reply due to the over sighting of e-mail, we feel it appropriate and proper to remand back the instant case to the file of the Ld. CIT(A) to decide afresh on merits within six month from the date of this order, while affording proper and reasonable opportunity of being heard to the Applicant/appellant, in order to follow the principle of natural justice. Hence we direct accordingly.

We also clarify that the Applicant shall extend its full co-operation and participation in the proceedings as and when required by the Ld. CIT(E) and file the relevant and requisite information as would be required by the Ld. CIT(E) and in case of further default the Ld. CIT(E) shall be at liberty to draw the adverse influence if any in accordance with law.

4. In the result, the appeal filed by the Applicant Society stands allowed for statistical purposes.

Order pronounced in the open Court on 09/10/2019.

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

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:09/10/2019.

/PK/ Ps.

Copy forwarded to:

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2. The Respondent
3. The CIT
4. Then CIT(Appeals)
5. SR DR, I.T.A.T. Amritsar
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By Order