

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. N.K.CHOUDHRY, JUDICIAL MEMBER AND
SH. O.P.MEENA, ACCOUNTANT MEMBER

ITA No. 71/Asr/2019

Assessment Year: NIL

Tejwant Singh Cheema
Charitable and Welfare Trust,
#1108/13, Tagore Nagar, Vs.
Near DMC & Hospital,
Ludhiana.

CIT(Exemptions)
Chandigarh.

[PAN:AADTT 2053R]

(Appellant)

(Respondent)

Appellant by: None
Respondent by: Sh. Alok Kumar (Ld. CIT- DR)

Date of hearing: 19.12.2019
Date of pronouncement: 19.12.2019

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Assessee/Appellant against the order dated 29/11/2018 passed by the Ld. CIT(Exemptions) u/s.12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter called as the 'Act).

2. It appears from the impugned order that the application for registration u/s 12AA of the Act was filed on 14-05-2018. The said application of the Appellant was taken into consideration and questionnaire was issued through online portal on 26-10-2018, with the request to the Appellant provide clarifications to the queries raised on 05-11-2018, in response to which the appellant has submitted the reply on ITBA.

Thereafter, the additional queries have been raised as mentioned in para No.3 of the order. As per impugned order the Id. CIT(E) has observed *that on this date neither did anybody attended nor was any attempt been made by the applicant to put forth its views in the matter even till passing of the order* . Ultimately the Id. CIT(E) denied the registration of the application u/s 12AA of the Act, without touching the merit of the case.

3. Having heard the parties at length and material available on record. It is observe that the Ld. CIT(E) has passed the order without touching the merit of the case and denied the registration u/s 12AA of the Act to the appellant society. It appears from the order that the Appellant did not bother to reply the additional queries raised by the Id. Commissioner. Although the instant appeal of the Appellant 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, jurasubveniunt* (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 behavior 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 peculiar fact that **the Ld. CIT(A) did not pass the order under challenge on merit**, 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, while affording proper and reasonable opportunity of being heard to the Appellant , in order to follow the principle of natural justice.

We also feel it imperative to direct the Appellant to extend its full co-operation and participation in the appellate proceedings before the Ld. CIT(A) as and when would be required and in case of further default, the Appellant shall not be subjected to any leniency.

4. In the result, the appeal filed by the Appellant society stands allowed for statistical purposes.

Order pronounced in the open Court on 19/12/2019.

Sd/-
(O.P.MEENA)
ACCOUNTANT MEMBER

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

Dated: 19/12/2019

/PK/ Ps.

Copy forwarded to:

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