

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

I.T.A. No. 5798/Del/2017

Shri Dharmik Ramlila Samiti, Ramlila Ground, Kavi Nagar, Ghaziabad. PAN: AARAS 0122P (Appellant)	vs.	CIT(Exemption) Lucknow. (Respondent)
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**Appellant by: Shri J.P. Jain, CA
Respondent by: Ms. Nidhi Srivastava, CIT/DR**

**Date of Hearing: 15/01/2020
Date of Pronouncement: 20/01/2020**

ORDER

PER K. NARASIMHA CHARY, JM

Challenging the order dated 17/08/2017 passed by learned Commissioner of Income-tax (Exemption), Lucknow ("Ld. CIT(E)") rejecting the application under section 12A for grant of registration u/s. 12AA, Shri Dharmik Ramlila Samiti("the assessee"), preferred this appeal.

2. Brief facts of the case are that the assessee, namely, Sh. Dharmik Ramleela Samiti was formed with the main object of running dispensaries, shelter home, schools, library and physiotherapy classes besides spreading the religious awareness among the society and working for the social welfare of the society. They have filed an application for registration under section 12A (a) of the Income Tax Act, 1961 (for short "the Act")

with the Commissioner of Income Tax (Exemptions), Lucknow (“Ld. CIT (E)”) on 30/3/2017.

3. By way of impugned order, Ld. CIT(E) observed that as per the provisions of section 12AA (1) (b) of the Act, two factors, namely, the object of charitable purpose and the genuineness of activities have to be proved before granting the registration, but the assessee society has not been able to produce the books of accounts, bank statement and vouchers in respect of expenses claimed by the assessee for verification of objects and activities of the trust, in the absence of which the genuineness of activities could not be verified. Basing on the material available before him, Ld. CIT(E) reached a conclusion that the assessee society is not carrying out any activities of charitable nature. He therefore, by way of impugned order rejected the application under section 12A (1) of the Act.

4. Aggrieved by such an order assessee preferred this appeal stating that the assessee had undertaken the charitable activities like Shav Vahan operations for carrying the dead bodies to cremation ground, shelter home for the homeless persons, ambulance operations for sick persons, provision of free food and arrangement of drinking water bottles with the help of members, besides organising Ramleela on famous Ramleela ground at Gaziabad. Ld. AR submitted that the observations of the Ld. CIT(E) that the society has not produced the books of accounts and vouchers is factually incorrect and as a matter of fact, all such material was submitted before the Ld. CIT(E) on 10/7/2017 along with the complete submissions according to the questionnaire received by them. It is further submitted that in the same set of facts and circumstances and

basing on the very same material, Ld. CIT(E) granted exemption under section 10(23C)(v) of the Act in the very next year.

5. Per contra, the Ld. DR while placing reliance on the impugned order vehemently contended that none of the objects are activities of the assessee amounted to charitable purpose and the concept of charitable purpose would be manifested different forms like relief of the poor, education, medical relief etc and running a theatre group or Ramleela Samiti by itself cannot model itself as charity purpose and unless certain initiative is taken by such institutions to carry out the acts of charity from the receipts of their commercial engagements, the societies like assessee are not entitled to the registration under section 12A(1) of the Act. He further submitted that the impugned order reveals that the assessee society had not produced the books of accounts, bank statement and vouchers in respect of expenses claimed by the assessee for verification of objects and activities of the trust and in the absence of such a material it was not possible for the Ld. CIT(E) to verify the genuineness of the activities, without which there was no proper compliance with section 12 AA (1) (b) of the Act. She therefore submits that the Ld. CIT(E) is justified in declining the registration.

6. We have gone through the record in the light of the submissions made on either side. By way of paper book the assessee submitted the copy of letter dated 10/7/2017 advanced to the Ld. CIT(E) wherein the assessee made detailed submissions to the questionnaire issued by the Ld. CIT(E) and also enclosing the copy of bank statement, books of accounts along with bills and vouchers etc. All these documents are certified to be

true copies by the Department. Ld. DR does not controvert the genuineness of these documents with reference to any record.

7. Further it could be seen that the very same officer granted approval under section 10(23C) (v) of the Act on 21/08/2018 on the application of the assessee filed on 19/08/2017, and such registration takes place within two days after passing the impugned order. Assessee submits that basing on the very same documents as are available before the Ld. CIT(E) in respect of their application of section 12A(1) of the Act, the registration under section 10(23C)(v) of the Act was granted.

8. Be that as it may, having regard to the entire factual matrix and in view of the material produced in this matter and certified to be true copies of the documents produced before the Ld. CIT(E), we are of the considered opinion that it is a fit case to set aside the impugned order and remand the issue to the file of the Ld. CIT(E) for considering the application of the assessee in the light of this material. We accordingly remand the issue to the file of the Ld. CIT(E) to consider these documents and to decide the issue afresh according to law.

9. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Open Court on 20th January, 2020.

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(K.NARASIMHA CHARY)
JUDICIAL MEMBER**

Dated: 20/01/2020.

Aks