

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI A.D JAIN, VICE PRESIDENT AND
SHRI T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.19/LKW/2018
A.Y. N.A.

Asharfi Lal Sewa Trust, C/o Pratap Hospital (Dr. Virendra Pratap) Mini Bypass Road, Bareilly, U.P. 243122 PAN AADTA7136Q	Vs.	CIT(Exemption), Lucknow
(Appellant)		(Respondent)

Appellant by	Shri P.K. Kapoor, CA
Respondent by	Shri S.K. Madhuk, CIT DR
Date of hearing	05/02/2020
Date of pronouncement	06/02/2020

ORDER

PER: T.S. KAPOOR, A.M.:

This is an appeal filed by the assessee against the order dated 22/11/2017 passed by Id. CIT (Exemption) rejecting the application for registration u/s 12AA of the I.T. Act.

2. The facts of the case, in brief, are that the assessee trust applied for registration u/s 12A(a) of the Act with CIT (Exemption) vide application dated 16/06/2017. The Id. CIT (Exemption) issued a letter dated 23/10/2017 to the assessee calling for specific queries regarding the application for registration u/s 12A for compliance on 22/11/2017 which has been returned by the postal department with the comments

“praaptkarta ki mirtyu ho gai hai attah wapas”. When nobody appeared nor filed written submissions on behalf of the assessee due to non receipt of notice, the CIT (Exemptions) passed the ex-parte order and rejected the application of the assessee for registration u/s 12A(A) of the Act on the ground that the assessee trust has not been able to produce the books of account, bank statement and vouchers in respect of expenses claimed by the assessee for verification of objects and activities of the trust.

3. We have heard the rival parties and have gone through the material placed on record. We noted that Id. CIT(Exemption) has rejected the application of the assessee for registration u/s 12AA of the I.T. Act for failure of the assessee to provide documents and books of account on the fixed date. We further find that one notice was issued to the assessee which was not even served upon the assessee as it had returned back unserved. Therefore, in these circumstances, we feel that sufficient opportunity of being heard was not provided to the assessee. Therefore, in these facts and circumstances, we feel that one more opportunity should be given to the assessee to explain its case before the Id. CIT (Exemption) as the assessee has not been given proper and sufficient opportunity of being heard. We, therefore, in the interest of justice, set aside the order of the Id. CIT (Exemption) and restore the matter to his file with the direction to consider the application of the assessee for

registration u/s 12A, after giving proper and sufficient opportunity of being heard to the assessee and to decide it afresh expeditiously, preferably within a period of two months from the date of passing of this order. The assessee is also directed to cooperate with the proceedings and should provide the material / clarifications as asked for by the Id. CIT (Exemption) at the earliest.

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

(Order pronounced in the open court on 06/02/2020)

Sd/-
(A.D. Jain)
Vice President

Sd/-
(T.S. Kapoor)
Accountant Member

Aks –
Dtd. 06 /02/2020

Copy of order forwarded to:

<i>(1) The appellant</i>	<i>(2) The respondent</i>
<i>(3) Commissioner</i>	<i>(4) CIT(A)</i>
<i>(5) Departmental Representative</i>	<i>(6) Guard File</i>

By order
Assistant Registrar