

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "H", MUMBAI**

BEFORE SHRI G. MANJUNATHA (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No. 5382/MUM/2018
Assessment Year: 2018-19**

M/s Hari Om Charitable Trust, C-48, Vashi Plaza, Plot 80 81, Sector – 17, Vashi, Navi Mumbai - 400703 PAN: AABTH5992D	Vs.	The Income Tax Officer, (Exemptions) (HQ) (Tech), Mumbai
(Appellant)		(Respondent)

Assessee by : Shri Piyush Chhajed (AR)

Revenue by : Shri T. Kpgen (CIT DR)

Date of Hearing: 06/01/2020
Date of Pronouncement: 06/01/2020

ORDER

PER RAM LAL NEGI, JM

This appeal has been filed by the assessee against the order dated 23.05.2018 passed u/s 12AA(1)(b)(ii) read with section 12A of the Income Tax Act, 1961 (for short the 'Act') by the Commissioner of Income Tax (Exemptions) [for short 'the CIT(E)], Mumbai, whereby the Ld. CIT(A) has rejected the application dated 08.12.2017 filed by the assessee for grant of registration under clause (aa) of sub section (1) of section 12A of the Act, on the ground that the assessee has failed to comply with the directions issued to the assessee.

2. Brief facts of the case are that the assessee Trust filed an application for grant of registration in the prescribed Form No. 10A on 08.12.2017. The Ld. CIT (E) issued notice and asked the applicant to furnish details like PAN Cards of Trustees and Settler, copy of bank accounts, NOC in respect of its office premises, certificate of registration issued by the Charity Commissioner, copies of audited accounts, note on activities undertaken and to substantiate its

claim. In response thereof, the trustees appeared before the Ld. CIT (E) and filed some of the documents. The Ld. CIT(E) posted the case for submitting the remaining details. However, the applicant did not file the details on the said date. The Ld.CIT (E) issued letter directing the applicant to furnish the complete details. Again, on the said date, none appeared on behalf of the assessee. Accordingly, the Ld. CIT (E) passed the impugned order holding that in view of the non-compliance on the part of the applicant trust and in the absence of requisite details/documents/explanation, it is not possible to decide the application on merits. The assessee is in appeal against the said findings of the Ld. CIT (E)

3. The assessee has challenged the impugned order passed by the Ld. CIT (E) on the following effective grounds:-

“1. On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Exemptions), Parel, Mumbai erred in rejecting the application for Registration u/s 12AA without establishing that the activities of the Trust as well as the objects of the Trust were ingenuine.

2. On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Exemptions), erred in registering the application of Registration u/s 12AA without appreciating that complete record as required were made available and the objects of the trust are in accordance with the requirements of the Provisions of the Act.”

4. At the outset, the Ld. counsel for the assessee submitted that the Ld. CIT (E) has passed the impugned order without granting sufficient opportunity to submit the documents/details/explanations to substantiate the claim of the assessee. Non-appearance of the applicant trust before the Ld. CIT (E) was neither negligent act nor inaction on the part of the assessee as it happened due to communication gap between the concerned authority and the applicant Trust, as the assessee did not receive the notices issued by the Ld. CIT(E). The Ld. counsel accordingly submitted that an opportunity may be given to the Trust to substantiate its claim in the interest of justice.

5. On the other hand, the Ld. Departmental Representative (DR) relying on the order passed by the Ld. CIT (E) submitted that since the assessee has failed to furnish the details called for by the Ld. CIT (E), the Ld. CIT (E) has rightly rejected the application.

6. We have heard the rival submissions of the parties and perused the material on record. The Ld. CIT (E) has rightly pointed out that as per the provisions of section 12AA(1)(b), registration is granted if the Commissioner is satisfied about the objects of the trust and genuineness of its activities. Further the onus is on the applicant to produce all relevant documents before the Commissioner for deciding the application in accordance with the provisions of the Act. Admittedly, in the present case, since the assessee did not produce the complete record the Ld. Commissioner rejected the application. As submitted by the Ld. counsel, the assessee could not furnish the complete documents/evidence as the assessee did not receive the notices. In the light of the aforesaid facts, we are of the considered view that the assessee should get one more opportunity to furnish the requisite details and documents and present its claim before the Ld. CIT (E) in the interest of justice.

7. We accordingly allow the request of the assessee and set aside the issue to the file of Ld. CIT (E) for deciding the issue afresh on merits after affording an opportunity to the assessee to furnish the complete details/documents/explanations and to substantiate its claim.

In the result, appeal filed by the assessee for assessment year 2018-2019 is allowed for statistical purposes.

Order pronounced in the open court on 6th January, 2020.

Sd/-

(G. MANJUNATHA)

ACCOUNTANT MEMBER

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 06/01/2020

आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**