



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

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

ITA No.378/LKW/2019  
Assessment Year: N.A.

Sri Kharpattu Chauhan Shikshan Sansthan Vill Hafizpur Post Hafizpur Vikas Khand Palhani District Azamgarh	v.	CIT (Exemption) Lucknow
TAN/PAN:AAQTS3789Q		
(Appellant)		(Respondent)

Appellant by:	Shri P. K. Kapoor, C.A.		
Respondent by:	Shri S. K. Madhuk, CIT (DR)		
Date of hearing:	05	02	2020
Date of pronouncement:	06	02	2020

**ORDER**

**PER A. D. JAIN, V.P.:**

This is assessee's appeal against the order of the ld. CIT (Exemption), Lucknow, dated 7/5/2019, rejecting the application for grant of registration under section 12A of the Income Tax Act, 1961.

2. The facts of the case are that the assessee filed an application for registration under section 12A(a) of the Income-tax Act, 1961 on 30/11/2018 with the CIT (Exemptions), Lucknow. The ld. CIT (Exemptions) issued a letter dated 25/3/2019 to the assessee, calling for specific queries regarding its application for registration under section 12A of the Act, for compliance on 7/5/2019. On this date, i.e., 7/5/2019, the ld. Counsel of the assessee appeared before the ld. CIT (Exemptions) and filed part reply with annexures and power of attorney. The ld. CIT (Exemptions) rejected the application moved by the assessee on

the ground, as are mentioned at paras 2 and 3 of his order, that the land is not in the name of the society and investment in building has been done by the Trustee, hence provisions of section 13(1)(c) read with section 13(3) of the Act are applicable; that, moreover, the receipt and payment account for financial year 2016-17 shows the cash in hand of Rs.16.60 lakhs, which does not tally with earlier statement; and that the assessee has merely submitted the trust deed and no material has been provided that could throw some light upon the activities, if any, carried out by the applicant, as claimed in the trust deed.

3. Before us, the ld. Counsel for the assessee has submitted that the ld. CIT (E) grossly erred in holding that the assessee had failed to provide sufficient material to corroborate the charitable nature of the objects and genuineness of the activities; that all the requisite information and material were filed before the CIT(E), vide letter dated 7/5/2019, but he omitted to consider the same while deciding the application of the assessee for registration; that during the course of hearing, the books of account alongwith bank statement and bill/vouchers were duly produced before the CIT(E), as such, he is not correct in observing that the books of account, bank statement and vouchers were not produced for verification of the objects and activities of the assessee; that the ld. CIT (E) erred in law and on facts in drawing an adverse inference by observing that the land was not in the name of the assessee and the investment in the building has been done by the Trustee; that the ld. CIT(E) has grossly erred in observing that the cash in hand shown in the receipt and payment account for the financial year 2016-17 did not tally with earlier statement; and that the assessee-trust was carrying on the activities of providing education, yoga and preservation of environment. Therefore, the

ld. CIT (E) ought to have granted registration to the assessee under section 12A of the Act.

4. The ld. D.R., on the other hand, has placed reliance on the order of the ld. CIT (Exemption), Lucknow.

5. Heard. We find that the assessee had filed an application for registration under section 12A(a) of the Act, which was rejected by the ld. CIT (Exemptions), observing that the land is not in the name of the society and the investment in building has been done by the Trustee, hence provisions of section 13(1)(c) read with section 13(3) of the Act are applicable; and that, moreover, the receipt and payment account for financial year 2016-17 shows the cash in hand of Rs.16.60 lakhs, which does not tally with the earlier statement. The ld. CIT (E) also observed, at para 3 of his order, that on perusal of the material on record, it is found that the appellant has merely submitted the trust deed and no material has been provided that could throw some light upon the activities, if any, carried out by the applicant as claimed in the trust deed. On the other hand, the submission of the ld. Counsel for the assessee was that the assessee, vide letter dated 7/5/2019 [APB:4-8] furnished the copies of PAN Card of the trust [APB:9], trust deed dated 9/12/2015 [APB:10-33], supplementary trust deeds dated 6/9/2018 and 25/4/2019 [34-50], audited financial statements for the year ended on 31/3/2016 [APB:51-62], acknowledgement of ITR for assessment year 2018-19 [APB:63-64] along with the computation of income, etc. Moreover, the ld. CIT (Exemption), Lucknow has not pointed out any specific activity, which can be said to be a non-charitable activity. It is a settled position of law that while granting registration under section 12A of the Act, the ld. CIT (Exemptions) is required to examine the objects of the assessee. If the objects of the assessee are charitable in nature, registration should be granted to the

assessee. It can only be denied, if the ld. CIT (Exemptions) has brought something on record to establish that the assessee was engaged in the activities other than charitable ones. This aspect was examined by this Bench of the Tribunal in various cases, wherein, the Tribunal held that while granting registration under section 12A of the Act, the ld. CIT (Exemptions) is required to examine, as to whether the objects of the applicant are of charitable nature or not. In the instant case, the ld. CIT (Exemptions) has not examined the nature of the objects of the society, but he has denied the registration. Therefore, we set aside the order of the ld. CIT (Exemptions) and restore the matter to his file with a direction to re-adjudicate the issue of grant of registration under section 12A of the Act in the light of the objects of the assessee-society, preferably within two months from the date of receipt of this order, on affording due opportunity of hearing to the assessee.

6. In the result, for statistical purposes, the appeal is treated as allowed.

Order pronounced in the open Court on 06/02/2020.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:06/02/2020  
JJ:0502

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order  
Assistant Registrar