

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
(VIRTUAL COURT)

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI , SANJAY GARG, JM

आयकर अपील सं./ ITA NO. 1120/Chd/2019

निर्धारण वर्ष / Assessment Year : 2018-19

Gurudwara Langar Sahib Parbhandhak Committee C/o Naresh Kumar Garg, Advocate H.No. ½, Railway Road, Sangrur- 148001, Punjab	बनाम	The CIT(E) 5 th Floor, C.R. Building Sector-17, Chandigarh
स्थायी लेखा सं./PAN NO:		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Vibhor Garg, CA
राजस्व की ओर से/ Revenue by : Smt. C. Chandrakanta, CIT

सुनवाई की तारीख/Date of Hearing : 20/10/2020
उदघोषणा की तारीख/Date of Pronouncement : 20/10/2020

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the assessee against the order dt. 12/06/2019 of Ld. CIT(E), Chandigarh.

2. Following grounds have been raised in this appeal:

1. *That the impugned order is bad both on facts and law.*
2. *That the Ld. CIT(Exemptions) has wrongly and illegally rejected the application u/s 12AA on irrelevant grounds and failed to consider the detailed reply of the questionnaire containing 36 queries.*
3. *That the Ld. CIT(Exemptions) has wrongly and illegally passed the ex-party order without a proper and reasonable opportunity of hearing.*
4. *That the appellant craves permission to add, amend, elucidate any ground of appeal at the time of hearing.*

3. The main grievance of the assessee vide Ground No. 3 relates to the exparte order passed by the Ld. CIT(E) without proper and reasonable opportunity of being heard given to the assessee.

4. Facts of the case in brief are that the assessee moved an application in Form No. 10A electronically on 24/12/2018 seeking registration under section 12AA of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

5. The Ld. CIT(E) asked the assessee about the activity and object vide Questionnaire dt. 08/02/2019 issued through online portal. The Ld. CIT(E) again asked the assessee on 05/03/2019 to provide clarification to the queries raised. The Ld. CIT(E) observed that the assessee furnished the reply through ITBA on 06/03/2019. He again asked the assessee to furnish further clarification by 27/05/2019 through the questionnaire claimed to be sent to the assessee on 21/05/2019 through ITBA. Since there was no compliance the Ld. CIT(E) rejected the application moved by the assessee.

6. Now the assessee is in appeal.

7. Ld. Counsel for the Assessee submitted that the notice for hearing on 27/05/2019, was not received by the assessee, therefore the Ld.CIT(E) was not justified in rejecting the application moved by the Assessee, exparte.

8. In her rival submissions the Ld. CIT DR strongly supported the impugned order passed by the Ld. CIT(E) and submitted that the assessee did not cooperate and had not availed opportunity of being heard granted by the Ld. CIT(E). So there was no alternative except to reject the application moved by the assessee for Registration under section 12AA of the Act.

9. We have considered the submissions of both the parties and perused the material available on the record. In the present case the main contention of the assessee is that the notice dated 21/05/2019 for hearing on 27/05/2019 was not

served upon the assessee. It is well settled that nobody should be condemned, unheard as per the maxim, "audi alteram partem".

10. We therefore keeping in view the principle of natural justice deem it appropriate to set aside this case back to the file of Ld. CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

11. In the result, appeal of the Assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 20/10/2020)

Sd/-

संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य/ Judicial Member
AG
Date: 20/10/2020

Sd/-

एन.के.सैनी,
(N.K. SAINI)
उपाध्यक्ष / VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar