

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, AMRITSAR
(VIRTUAL COURT)**

**BEFORE: SHRI. N.K. SAINI, VICE PRESIDENT AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

ITA No. 171/Asr/2020
Assessment Year: 2020-21

Democratic Council
732/9C, Guru Teg Bahadur
Nagar Housing Road Colony
Jalandhar 144004 Punjab

[PAN No: AACAD 5684L]
(Appellant)

Vs. Commissioner of Income Tax
(Exemptions), Chandigarh

(Respondent)

Appellant by : Sh. Puneet Oberoi (Ld. C.A.)

Respondent by: Sh. M. P. Singh (Ld. CIT- DR)

Date of hearing: 25.11.2020

Date of pronouncement: 25.11.2020

ORDER

PER N.K. CHOUDHRY, JM:

This appeal has been preferred by the Appellant/Assessee against the order dated 16-09-2020 impugned herein passed by the Ld. CIT(E), Chandigarh u/s. 12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter called as the 'Act') for the aforesaid assessment year, whereby the Ld. CIT(E) dismissed the application of the Appellant for registration under section 12A of the Act.

2. It appears from the impugned order that the application for registration u/s 12A of the Act was filed on 16-01-2020 which was taken into consideration and questionnaire was issued

through online portal on 19-02-2020 with opportunity of making requisite submissions by 06-03-2020, which remains un-complied. Thereafter Ld. CIT(E) fixed the proceedings for hearing on various dates, however on most of the dates, the Appellant neither attended the proceedings nor filed any adjournment application and therefore the Ld. CIT(E) rejected the application for grant of registration u/s 12A of the Act, while observing that keeping in view the unresponsive attitude of the Appellant, it is safe to conclude that the applicant has failed to discharge its onus to prove that its income is free from exigibility of taxes.

3. We have given our thoughtful consideration to the order impugned herein. The Appellant most of the times, did not bother itself to appear and co-ordinate with proceedings before Ld. CIT(E) even after availing various opportunities. Although the instant appeal of the Appellant is liable to be dismissed in order to give effect to the principle that law does not assist the person who is inactive and sleeps over his rights by allowing them when challenged or disputed to remain dormant, without asserting them in a court of law. The, principle which forms the basis of this rule is expressed in the maxim vigilantibus, non dormientibus, jura subveniunt (Law assists those who are vigilant and not those who sleep over their rights), but even a vigilant litigant is prone to commit mistakes. As the aphorism to err is human and is more a practical notion of human behavior than an abstract philosophy, the unintentional lapse on the part of a litigant should not normally cause the doors of the judicature permanently closed before him. The effort of the court should not be one of finding means to pull down the shutters of

adjudicatory jurisdiction before a party who seeks justice, on account of any mistake committed by him, but to see whether it is possible to entertain his grievance if it is genuine, therefore, considering the facts that **the Ld. CIT(E) did not pass the order under challenge on merit**, we feel it appropriate and proper to remand back the instant case to the file of the Ld. CIT(E) for decision afresh on merits, while affording proper and reasonable opportunity of being heard to the Appellant, in order to follow the principle of natural justice.

We also feel it appropriate to direct the Appellant to extend its full co-operation and participation in the proceedings before the Ld. CIT(E) as and when would be required and in case of further default, the assessee shall not be subjected to any leniency.

4. In the result, the appeal filed by the Appellant is allowed for statistical purposes.

Order pronounced in the open Court on 25.11.2020.

Sd/-
(N. K. Saini)
VICE PRESIDENT

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

GP/Sr.PS.

Copy of the order forwarded to:

- (1) Appellant
- (2) The Respondent
- (3) The CIT (E)
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order