

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'B' CHANDIGARH

श्रीमती दिवा सिंह, न्यायिक सदस्य एवं, एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE: SMT. DIVA SINGH, JM & SMT. ANNAPURNA GUPTA, AM

आयकर अपील सं./ITA No. 1376/CHD/2019
[Order u/s 12AA(1)(b)(ii)]

Shri Sahib Dayal Ji Sulahkul Satsang Trust, Village - Laha, P.O. - Saha Distt. - Ambala.	बनाम VS	The CIT (Exemptions), Sector 17-E, Chandigarh.
स्थायी लेखा सं./PAN No: AASTS4936M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Anshul Goyal, CA
राजस्व की ओर से/ Revenue by : Shri Sandip Dahiya, CIT

सुनवाई की तारीख/Date of Hearing : 20.01.2021
उद्घोषणा की तारीख/Date of Pronouncement : 22.01.2021

Hearing conducted via Webex

आदेश/ORDER

PER DIVA SINGH

The present appeal has been filed by the assessee wherein the correctness of the order dated 27.08.2019 of CIT(E) Chandigarh u/s 12AA(1)(b)(ii) of the Income Tax Act, 1961 is assailed on various grounds.

2. Since at the time of hearing no one was present on behalf of the assessee on considering the grounds raised it is seen that the assessee has also agitated lack of opportunity

vide ground No. 4, accordingly the said ground was taken up for hearing. Considering the record, ld. CIT-DR was heard.

The specific ground reads as under :

“4. That the Ld. CIT (Exemptions) had erred in not providing as well as not communicating the opportunity of being heard to the appellant, alleged by Ld. CIT(Exemptions) being provided.

3. On a perusal of the impugned order, it was noticed that apart from general narration in para 2 of the impugned order stating *“The stated aims and objects of the trust is to show the path which leads to the Divine House (Pabrahma) beyond universe which is called paramdham, jannat, Baikunth, Sach Khand from where the messengers of God, holy saints, avtars, pegambers come to the earth to flourish the spiritual knowledge for the welfare of humanity, to surrender to holy lotus feet of Shri Satguru Maharaj Ji to achieve ultimate distinct goal of soul described in various holy books, Vedas and kuran etc.”* there is no further discussion on the activities of the assessee etc..

4. It is seen that on considering the application dated 26.02.2019 in Form No. 10A seeking registration u/s 12AA various documents were sought by the adjudicating authority from the assessee and on 27.05.2019 Mr. Kewal Krishan, CA did appear before CIT (E). On considering the documents filed, the adjudicating authority further required the assessee vide letter dated 08.08.2019 to give various other informations and details as set out in para 6 of the impugned order. However, no one appeared on the next date

i.e. 14.08.2019. Another opportunity was given to the assessee, however on the said date also i.e. 20.08.2019, the assessee failed to appear. In the peculiar facts and circumstances the CIT (E) passed the order noting the aforesaid facts. On a reading of the ground No. 4, it is seen that the assessee is aggrieved by lack of opportunity. We note that opportunity has been provided, however considering the ground and affording the assessee benefit of the pleading made i.e. lack of communication of the date of hearing after hearing CIT-DR Mr. Dahiya, we are of the view that in the interests of substantial justice, it would be appropriate to restore the issue back to the file of the CIT (Exemptions) for adjudication afresh after hearing the assessee.

5. While so directing, it is made clear that the assessee shall ensure full and proper participation before the said authority and not to abuse the trust reposed. It is made clear that in the eventuality of abuse of the trust reposed, CIT (E) would be at liberty to pass an order in accordance with law on the basis of material available on record after carrying out a specific discussion on the stated aims and objects of the Trust etc. if any etc. We note that the general discussion in para 2 by itself does not throw much light on

the aspect. Said order was pronounced at the time of hearing itself via Webex.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced on 22nd January,2021.

Sd/-

(अन्नपूर्णा गुप्ता)

(ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

“पूनम”

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

Sd/-

(दिवा सिंह)

(DIVA SINGH)

न्यायिक सदस्य/ Judicial Member

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar