

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD
(Conducted through Virtual Court)

BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

ITA No.1973/Ahd/2018

Sunrise Education Trust C/o.Dhirubhai P. Chavda At. Tuva, Wadhan Dist. Surendrangar 363 421.	Vs.	CIT (Exemptions) Ahmedabad.
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(Applicant)	(Responent)
Assessee by :	Shri Chirag Shah, AR
Revenue by :	Shri Ritesh Parmar, CIT-DR

सुनवाई की तारीख/Date of Hearing : 22/02/2021
घोषणा की तारीख /Date of Pronouncement: 24/02/2021

आदेश/ORDER

PER RAJPAL YADAV, VICE-PRESIDENT:

This is assessee's appeal against the order of the ld.CIT(Exemptions), Ahmedabad dated 23.8.2018 passed under section 12AA of the Income Tax Act, 1961.

2. In this appeal, only grievance of the assessee-trust is that the ld.CIT(Exemptions) is erred in rejecting application of the assessee for grant of registration under section 12AA for the reason of non-submission of requisite details during the proceedings.

3. Brief facts of the case are that the assessee is a trust engaged in educational activities. For grant of registration of the Trust under

section 12AA of the Income Tax Act, it has filed an application on 12.02.2018 in form no.10A under Rule 11A of the Act along with Registration certificate issued by the Charity Commissioner. Vide letter of the Department dated 10.4.2018 assessee was asked to furnish various documents and details as mentioned in the impugned order. However, the Id.CIT(Exemptions) noted in his impugned order that there was no appearance on behalf of the assessee nor any details were supplied to consider the case of the assessee, despite providing opportunity to the assessee. In the absence of the details, the Id.CIT(E) rejected the application of the assessee-trust for grant of registration under section 12AA of the Income Tax Act, 1961. Aggrieved by the action of the Id.CIT(E), the assessee is now before the Tribunal.

4. Before us, the assessee has filed paper book containing pages from 1-59 which also contained copy of reply filed by the assessee before the ITO(HQ) dated 20.8.2018 along with enclosures and required details. The same was acknowledged by the department on 12.2.2018. This paper book, amongst other, contained bank statements, copy of final accounts for the year ended on 31.3.2015 and auditor's report for the financial year 2015-16. The Id.counsel for the assessee submitted that necessary details furnished by the assessee were not considered by the Id.CIT while rejecting the application of the assessee. Before passing *ex parte* order, the Id.CIT ought to have considered the same before rejecting the application of the assessee. He therefore submitted that the assessee may be given one more opportunity by restoring the issue to the file of the Id.CIT for

reconsideration of its application. On the other hand, the Id.DR supported the order of the Id.CIT.

5. We have considered rival submissions and gone through the record carefully. As we noted herein, assessee is stated to be engaged in educational activities. It has registered with Charity Commissioner. We find that Id.CIT(Exemption) has rejected application of the assessee for grant of registration in the absence of details, which he sought from the assessee for adjudication. Before us, the assessee has filed a paper containing copies of its books accounts and auditor's report. Though the same were filed with the office of Id.CIT, they were not being considered by the Id.CIT while deciding the application of the assessee and dismissed the application of the assessee *ex parte*. It seems to us that upto the date of hearing, the assessee did not file the details but filed those details before the date of order. The Id.CIT has given opportunity upto 17.7.2018 and thereafter, it appears to have been reserved for order, during that period, the assessee filed the details. It is not discernible, whether those details were brought to the notice of Id.CIT or not. Though carefree attitude of the assessee in not complying with notice of the Id.CIT may justify action of the Id.CIT to some extent, but outright rejection of the application for grant of registration without considering the same on merit and material placed on record, would burden assessee with a huge tax liability. We are of the view, if punishment in the shape of tax liability is weighed with negligence on the part of the assessee, then, the punishment of rejection of application by the Id.CIT is disproportionate to the negligence. Thus, we are of the view that assessee should have been given one more opportunity to support

its case, and therefore, in the interest of justice, it is appropriate for us to set aside the impugned order and restore the issue, whether or not to grant registration to the assessee under the Income tax Act, back to the file of the CIT (Exemptions) for fresh examination and adjudication thereon after affording the assessee reasonable opportunity of being heard in the matter and to file details/submissions required, which shall be considered by the CIT (Exemptions) before deciding the issue. Assessee is also directed to cooperate and ensure timely submission of details/clarifications called for by the CIT (Exemptions). We hold so, and allow grounds of appeal of the assessee for statistical purpose.

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

Order pronounced in the Court on 24th February, 2021 at Ahmedabad.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
VICE-PRESIDENT**