

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

[THROUGH VIRTUAL COURT]

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**I.T.A. No. 33/ALLD/2020
Assessment Year: 2019-20**

Krishna Shiksha Sewa Sansthan, Jamua, Meja, Allahabad - 212302	vs.	The Commissioner of Income Tax (Exemption), 5 th Floor, South Block, T.C./46V, U.P.S.D.C. Ltd., Vibhuti Khand, Gomti Nagar, Lucknow - 226010
PAN: AADAK3109Q (Appellant)		(Respondent)

Appellant by	Shri S.K. Jaiswal, CA
Respondent by	Shri Shantanu Dhamija, CIT DR
Date of hearing	25/03/2021
Date of pronouncement	26/03/2021

ORDER

This appeal by the assessee is directed against the order dated 30.01.2020 of CIT (Exemption) passed u/s 12AA (1) (b)(ii) of the Income Tax Act, whereby the application of the assessee for registration u/s 12A of the Income Tax Act was rejected.

2. The assessee has raised the following grounds:-

"1. Because the learned Commissioner of Income Tax (Exemption) has erred in law and on facts in holding that activities of the appellant remains unverified, therefore the applicant loses its eligibility for registration under section 12AA(1)(b)(ii) of the Income Tax Act, 1961.

2. Because the learned Commissioner of Income Tax (Exemption) fails to appreciate the fact that applicant society is doing its charitable activities in the rural and remote area and furnished the complete details of service rendered to the society, the finding to the contrary is based on conjecture and surmises and not on the basis of any material on record.

3. Because the order appealed against is contrary to the facts, law and principle of natural justice.”

3. The Ld. AR of the assessee has submitted that the assessee has filed the application in Form No. 10A on 15.07.2019. However, the Commissioner (Exemption) has issued notice to the assessee for giving an opportunity of hearing on 2nd January 2020. In response to the said notice, the assessee filed an application for seeking adjournment of hearing which was re-fixed to 23.01.2020. He has pointed out that on the date of hearing on 23.01.2020, he appeared before the CIT (Exemption) and filed books of account and other details. The Ld. CIT (Exemption) vide order sheet dated 23.01.2020 has asked the assessee to submit the details of donations received in the F.Y. 2017-18 & 2016-17. In compliance to the said directions, the assessee filed the written submissions along with details of the donations and confirmations of the local donors on 24.01.2020 itself. He has referred to the written submissions as well as the details filed by the assessee on 24.01.2020 and submitted that due to paucity of time, the assessee could not obtain the confirmation from outside donors. The Ld. AR has thus contended that the observations of the Commissioner (Exemption) that the assessee did not submit any confirmation of donation is contrary to the record. Further, the Commissioner has also given the reasons for rejecting the application that the assessee has not filed any evidence in support of the claim that it has organized medical camp for providing the medical facilities and supporting bills of expenditure to substantiate the activity carried out by the assessee to attain the objects of

the assessee trust. The Ld. AR has submitted that the Commissioner (Exemption) never asked the assessee to submit those details or bills as well as photographs. Even otherwise photographs for organizing the medical camp is not required. Thus, the Ld. AR has contended that the assessee has furnished relevant particulars as well as documentary evidence in support of the donations and also filed the books of account showing all the details of the expenditure incurred by the assessee which is duly audited. He has thus pleaded that the impugned order may be set aside and the Commissioner may be directed to grant the registration u/s 12A of the Income Tax Act.

4. On the other hand, the Ld. CIT DR has submitted that the CIT (Exemption) has given various reasons for rejecting the application and the absence of the confirmation is only one part of the reasons and not the sole basis of rejection. He has referred to para 2 and 3 of the impugned order and submitted that apart from the non furnishing of the confirmation the Commissioner (Exemption) has observed that the assessee society stated to have provided medical services to the poor in the rural areas by organizing medical camp and running medical clinic however, in support of the said claim the assessee has not submitted or produced any evidence like place of camp, date of camp, beneficiary of camp etc. nor the assessee has provided any photographs, bills of expenditure to substantiate the claim of activity as claimed by the assessee. Thus, the assessee has failed to provide the material to corroborate the charitable nature of objects and genuineness of the activity. He has relied upon the impugned order of the Commissioner (Exemption).

5. We have considered the rival submissions as well as the relevant material on record. We have also carefully perused the impugned order passed by the Commissioner (Exemption) and noted that vide order sheet entry dated 23.01.2020, the assessee was asked to submit the confirmation of donations. In response to that the assessee submitted the confirmation for

the financial year 2018-19 of 4 persons out of 13 persons from whom donations were received by the assessee society. Further, two of the 4 persons are members of the society. The Commissioner (Exemption) thus observed that the donations to the tune of Rs. 2,94,000/- remain unverified. Similarly, for the F.Y. 2017-18, the Commissioner (Exemption) observed that the assessee did not submit any confirmation of donations. The assessee has explained that the confirmation of the local donors were submitted along with written submission on 24.01.2020 and due to the paucity of time the assessee could not furnished the confirmation of the outside donations. It is apparent that the assessee has furnished the written submission and the confirmation of the local donors on the very next date when the Commissioner asked the assessee to submit the confirmation of donations. Since the order was also passed on 30.01.2020 therefore, the time constraints for taking the confirmation of donations from outside donors cannot be ruled out. Apart from incomplete confirmation, the Commissioner has also made observations of lack of documentary evidence to support the activity of providing medical services to the poor in the rural areas as claimed by the assessee and the expenditure booked in the income and expenditure account is not supported by the bills and other documentary evidence. Therefore, the Commissioner (Exemption) has basically raised two objections: (i) incomplete confirmation of donations and (ii) non furnishing of bills in support of the expenditure as well as the evidence to prove that the assessee has actually carried the medical services to the poor by organizing medical camps and running medical clinics. There is no quarrel on the point that while granting the registration u/s 12A the competent authority (Commissioner) is required to satisfy himself about the charitable nature of the objects of the trust/institutions and genuineness of the activities. So far as the charitable nature of the objects of the assessee society is concerned, the CIT (Exemption) has not doubted the charitable nature of the objects which are duly stated in the memorandum

and rules of the society and available with the Commissioner (Exemption). The only precondition which the assessee was required to satisfy the Commissioner (Exemption) is the genuineness of the activity to achieve the objects of the assessee society. So far as the confirmation of the donations are concerned since the assessee has explained the cause of incomplete confirmation as time constrains therefore, we find that the assessee ought to have been granted sufficient time for submitting the confirmation of donations. The second objection is regarding the genuineness of the activities and proof of providing the medical services to the poor by organizing medical camp running medical clinics. Though, the Commissioner (Exemption) has observed that the said claim is not supported by the evidence however, we find force in the contention of the assessee that the assessee was not specifically asked by the Commissioner to produce such evidence. Accordingly, in the facts and circumstances of the case and in the interest of justice, we set aside the impugned order of the Commissioner (Exemption) and remit the matter to the record of the Commissioner (Exemption) for deciding the same afresh after giving one more opportunity to the assessee to submit the complete confirmation of donations as well as other documentary evidence in support of carrying out the activities of providing medical services to the poor in the rural areas. The assessee is directed to produce the complete confirmation of donations as desired by the Commissioner (E) and also produce the documentary evidence in support of the medical services provided to the poor and the rural areas.

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

6. Order pronounced in the open court on 26th March, 2021.

Sd/-
(RAMIT KOCHAR)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Allahabad

Dated: 26/03/2021

A.K., PS

Copy forwarded to:

1. The Appellant
2. The Respondent
3. The CIT(A)
4. The CIT
5. The DR, I.T.A.T.
6. Guard File

By Order

(I.T.A.T., Allahabad)

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