

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 आर.एल. नेगी, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI R.L. NEGI, JM

आयकर अपील सं./ ITA No. 287/Chd/2020
निर्धारण वर्ष / Assessment Year :

| | | |
|--------------------------------------------------------------------------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------|
| Haryana State Sports Council, Khel Bhawan, Tau Devi Lal Sports Complex, Sector-3, Panchkula-134112. | बनाम | The Commissioner of Income Tax (Exemptions), C R Building, 5 th Floor, Sector-17, Chandigarh-160017. |
| स्थायी लेखा सं./PAN NO: AAAJH 0619 L | | |
| अपीलार्थी/Appellant | | प्रत्यर्थी/Respondent |

निर्धारिती की ओर से/Assessee by : Shri B.K. Nohria, C.A.
राजस्व की ओर से/ Revenue by : Smt. C. Chandrakanta, CIT (DR)

सुनवाई की तारीख/Date of Hearing : 10/05/2021
उद्घोषणा की तारीख/Date of Pronouncement : 10/05/2021

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the Assessee against the order dated 29/08/2019 of Ld. CIT(E), Chandigarh. Following grounds have been raised in this appeal:

- “1. That on the facts and in the circumstances of the case in the absence of any service of the notice the order has been passed without affording any opportunity to explain the objects and activities of appellant which needs to be restored to CIT(Exemption).
2. That the appellant reserves the right to add, amend or delete one or more of the grounds of appeal before the appeal is disposed off.”

2. From the aforesaid grounds, it is gathered that only grievance of the assessee relates to the ex parte order passed by the Ld. CIT(E) without affording opportunity of being heard.

3. The facts of the case in brief are that the assessee e-filed Form No. 10A for registration U/s 12AA of the Income Tax Act, 1961 (hereinafter referred to as, the Act). However, the Id. CIT(E) rejected the application filed by the assessee by observing in paras 2 to 4 of the impugned order as under:

- "2. In order to appraise the activities and whether the same were in sync with the stated ostensible objects a questionnaire was issued electronically on 27.04.2019 vide which opportunity of personal hearing was accorded to the applicant, with the request to provide clarifications to the queries raised on 10.07.2019.*
- 3. On this date neither did anybody attended nor was any request for adjournment received. In order to follow the principle of natural justice another opportunity was accorded to the applicant on 26.07.2019 and matter was fixed for 09.08.2019. On this date neither did anybody attended nor was any request for adjournment received. Another opportunity was accorded to the applicant on 14.08.2019 and matter was finally fixed for 22.08.2019. On this date neither did anybody attended nor was any request for adjournment received. Given the noncompliance on the occasion afforded to the assessee, it becomes evident that the applicant is not interested in pursuing the matter. In the absence of submissions regarding the activities, it is difficult to verify both the objects & genuineness of activities of the company. It can safely be concluded that the queries raised could not be answered by the applicant.*
- 4. Further, keeping in view the unresponsive attitude of the applicant, it is safe to conclude that the assessee has failed to discharge its onus, this being a beneficial clause for the assessee, to prove that its income is free from eligibility of taxes. In light of the above, the application for grant of Registration u/s 12AA is accordingly rejected."*

4. Now the assessee is in appeal.

5. The Id. Counsel for the assessee submitted that no notice for hearing was served upon the assessee who was not aware of the date fixed for hearing on 22/08/2019. It was stated by the Id. Counsel for the assessee that the Id. CIT(E) passed the impugned order ex parte without commenting on the objects of the

assessee which were charitable in nature, therefore, the rejection of application for grant of registration U/s 12AA of the Act was not justified.

6. In her rival submissions, the Id CIT-DR strongly supported the impugned order passed by the Id. CIT(E) and further submitted that the assessee was non-cooperative and did not appear whenever the case was fixed for hearing, so it was difficult to verify the objects as well as genuineness of the activities of the assessee society. Therefore, the Id. CIT(E) rightly rejected the application moved by the assessee.

7. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it is noticed that the Id. CIT(E) passed the impugned order ex parte. He simply stated that opportunity was afforded to the assessee on 14/08/2019 and the matter was fixed for hearing on 22/08/2019. However, it is not brought on record as to whether the notice for hearing was served upon the assessee or the aforesaid date was intimated to the assessee. It is well settled that nobody should be condemned unheard as per the maxim "audi alteram partem". We therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside the impugned order and restore the matter back to the file of the Id. CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of hearing to the assessee.

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

(Order pronounced in the open Court on 10/05/2021)

Sd/-

आर.एल. नेगी
(R.L. NEGI)

न्यायिक सदस्य/ Judicial Member

*Ranjan

Date: 10/05/2021

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