

**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.2/Chd/2021  
निर्धारण वर्ष / Assessment Year : 2019-20

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| Baba Farid University of Health Science,<br>Adv. G.K. Garg, Street Goldy Advocate, Circular Road,<br>Faridkot-151203, Punjab | बनाम | The CIT(E)<br>Room No. 1, 5 <sup>th</sup> Floor C.R. Building<br>Sector 17-E,<br>Chandigarh-160017 |
| स्थायी लेखा सं./PAN NO: AAAGB0018A   |      |  |
| अपीलार्थी/Appellant  |      | प्रत्यर्थी/Respondent  |

निर्धारिती की ओर से/Assessee by : Shri G.K. Garg, Advocate  
राजस्व की ओर से/ Revenue by : Smt. C. Chandrakanta, CIT

सुनवाई की तारीख/Date of Hearing : 02/06/2021  
उद्घोषणा की तारीख/Date of Pronouncement : 02/06/2021

**आदेश/Order**

**PER N.K. SAINI, VICE PRESIDENT**

This is an appeal by the Assessee against the order dt. 18/09/2020 of the Ld. CIT(E), Chandigarh.

2. The Registry has pointed out that the appeal is barred by limitation by 53 days. The Assessee moved an application for condonation of delay dt. 29/01/2021 stating therein as under:

*Sub:- Reply to Notice for Defects in Appeal*

*Ref.:- Appeal No. ITA No.-2/Chandi/2021 A.Y. 2019-20 Dated 21/01/2021.*

*Sir,*

*It is respectfully submitted that above said Notice was received and the reply to the Notice is under:-*

Regd. Delay in filling of Appeal:- That the University had filed a appeal against the order of CIT (Exemption) for rejecting the Application U/s 10(23C)(vi) by delay of 53 Days due to Pandemic of Covid-19 & most of Officer of University become positive and Appeal Order in original (except copy received online) is not received to University by post till today. So, the University may not file the Appeal in-time without any intention.

Keeping in view of Pandemic of Covid-19, please consider application for condone the delay in filling of Appeal.

Regd. Appeal/ Cross Objection in Prescribed Form .- That the Appeal was filed in old format of Form 36 wrongly. That hereby I am enclosing the correct and complete form of Form-36. Please consider the same with old format and oblige.

3. During the course of hearing the Ld. Counsel for the Assessee submitted that the delay if any occurred was due to pandemic of Covid-19, therefore the same may be condoned.

4. The Ld. CIT DR could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

5. We therefore by keeping in view the aforesaid application furnished by the assessee condone the delay and the appeal is admitted.

6. Following grounds have been raised in this appeal:

1. That the order of the Ld. CIT (Exemption) is defected both in law and facts and hence liable to set aside.

2. That the Ld. CIT (Exemption) has misdirected himself by rejecting the application for exemption (Form-56) without giving the proper opportunity of being heard or going through the reply filed on e-portal as well as emailed. Keeping in view of the above submission and record already placed on file, your honor is requested to set aside the rejection order and pass the such order deemed fit in favor of assessee.

3. The appellant can leave or add any grounds of appeal before disposal of appeal.

4. Appeal is in time (Notification No.35 / 2020, Dated 24 June 2020 and comes into force from 30 June 2020).

From the aforesaid grounds it is gathered that main grievance of the assessee relates to the proper opportunity of being heard not provided by the Ld. CIT(A).

7. Facts of the case in brief are that the assessee furnished an application for approval under section 10(23C)(vi) of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). the Ld. CIT(E) rejected the said application by observing in para 3 & 4 of the impugned order as under:

3. In response, the applicant has replied online. On perusal of the reply of the applicant, it is noticed that the applicant has not submitted anything except covering letter. The applicant was again given the opportunity to submit the documents on 18.09.2020 and the date was fixed for 21.09.2020. The applicant has not provided the following :-

1. Copy of MOA
2. Bank Statements
3. Fee structure
4. Salary Details
5. Details of donations
6. Financial statements for last six years
7. Copy of ITRs
8. Land Ownership documents

In the absence of the documents mentioned above, the nature of activities and the genuineness of the expense incurred on charitable activities could not be established. The applicant was specifically asked in the fixation letter dated 15.06.2020 to submit the same.

4. In the absence of the documents mentioned in the Para No. 3, there is no way the genuineness of activities of the society can be corroborated with the stated aims and objects. Accordingly the present application for grant of approval u/s 10(23C)(vi) of the Income Tax Act, 1961 is hereby rejected.

8. Now the assessee is in appeal.

9. The Ld. Counsel for the Assessee submitted that no proper opportunity of being heard was provided by the Ld. CIT(E), therefore the rejection of application moved by the assessee was not justified.

10. In her rival submissions the Ld. CIT DR strongly supported the impugned order passed by the Ld. CIT(E).

11. 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 Ld. CIT(E) himself mentioned that on 18/09/2020 the assessee was asked to submit the documents and the date was fixed for 21/09/2020. He passed the impugned order on 22/09/2020 by stating that the assessee did not furnish the documents. In our opinion the time given by the Ld.CIT(E) was very short and not adequate, therefore it may be said that the proper opportunity of being heard was not provided to the assessee. It is well settled that nobody should be condemned, unheard as per the maxim, "audi alteram partem".

12. We therefore by keeping in view the principle of natural justice, deem it appropriate to set aside this case back to the file of the Ld. CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order pronounced in the open Court on 02/06/2021 )

**Sd/-**

**आर.एल. नेगी**  
**(R.L. NEGI )**  
**न्यायिक सदस्य/ Judicial Member**  
**AG**  
**Date: 02/06/2021**

**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