

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI A.D JAIN, VICE PRESIDENT AND
SHRI T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No. 652/LKW/2017
A.Y. N.A.

Aryavart Rural Development Trust, A-2/46, Vijay Khand, Gomti Nagar, Lucknow. PAN AAFTA 5006P	Vs.	CIT(Exemptions), Lucknow
(Appellant)		(Respondent)

Appellant by	Shri Jitendra Kumar Yadav, Advocate
Respondent by	Smt. Abha Kala Chanda, CIT, DR
Date of hearing	18/03/2021
Date of pronouncement	16/06/2021

ORDER

PER: T.S. KAPOOR, A.M.:

This is assessee's appeal against the order of the Id. CIT (Exemption), Lucknow, dated 14/06/2017, rejecting the application for registration under section 12A(a) of the Income Tax Act, 1961.

2. The facts of the case are that the assessee filed an application for registration under section 12A(a) of the Income tax Act, 1961 on 14/12/2016 with the CIT (Exemption), Lucknow. The Id. CIT (Exemptions) issued a letter dated 06/05/2017 to the assessee calling for specific queries regarding its application for registration under section 12A of the Act, for compliance on 06/06/2017. On this date,

i.e., 06/06/2017 assessee's counsel appeared and filed part reply and the case was adjourned for 07.06.2017 for furnishing the remaining reply. On that date 07.06.2017, assessee's counsel appeared but learned CIT(E) observed that assessee did not produce any books of account or vouchers, therefore, he rejected the application of the assessee for registration u/s 12A(a) of the Act. While rejecting the application learned CIT(E) further observed that assessee had not carried out any activity. It was submitted by Id. A.R. of the assessee that the order of Id. CIT (Exemption) is based on the basis that the assessee society was not able to produce the books of account, bank statement and vouchers in respect of expenses claimed by the assessee. In this respect he invited our attention to a reply filed in response to notice dated 05.06.2017 by Id. CIT(E) where it had filed last three years balance sheet, income and expenditure account, copy of trust deed and all the documents related to genuineness of activities. Id. counsel submitted that under these facts, it is not correct on the part of Id. CIT (Exemption) to state that assessee could not produce any books of account, vouchers or sufficient material for formation of satisfaction. He submitted that copy of trust deed wherein the objects are mentioned, was sufficient for learned CIT(E) to grant exemption to the society.

3. The Id. D.R. has placed reliance on the order of the Id. CIT (Exemption), Lucknow.

4. We have heard the rival parties and have perused the material available on record. We note that Id. CIT(Exemption) has rejected the application of the assessee for registration u/s 12AA of the I.T. Act on

the ground that assessee has failed to provide sufficient material to corroborate the charitable nature of the objects and genuineness of the activities. Before us, the Id. A.R. of the assessee submitted that Id. CIT (Exemption) has rejected the application of assessee society by holding that assessee did not produce the books of accounts, bank statement and vouchers in respect of expenses claimed by the assessee whereas the copy of trust deed itself was sufficient to grant exemption to the assessee. From the order of Id. CIT (Exemption), it is apparent that the Id. CIT (Exemption) had issued only one letter dated 06/05/2017 calling for specific queries regarding its application for registration. The assessee though filed part of documents but it could not produce books of account, Bank statements and vouchers and therefore Id CIT (Exemption) passed the order and rejected the application of the assessee for registration u/s 12A of the Act. While rejecting the application, the learned CIT(E) has not commented on the objects clause of the society as to whether these are charitable in nature or not and further he has mentioned that assessee had not carried out any activity. We further find that sufficient opportunity has not been provided to assessee to explain its case as the first date of hearing was fixed for 06/06/2017 and the date of passing of order is 14/07/2017. Therefore, under these facts, we feel that one more opportunity should be given to the assessee to explain its case before the Id. CIT (Exemption). We, therefore, in the interest of justice, set aside the order of the Id. CIT (Exemption) and restore the matter to his file with the direction to consider the application of the assessee for registration u/s 12A afresh after giving proper and sufficient

opportunity of being heard to the assessee. The assessee is also directed to be present on the date of hearing and provide the material / clarification as asked for by the Id. CIT (Exemption).

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

(Order pronounced in the open court on 16/06/2021)

Sd/-
(A.D. Jain)
Vice President

Sd/-
(T.S. Kapoor)
Accountant Member

Aks/ -
Dtd. 16/06/2021

Copy of order forwarded to:

(1) <i>The appellant</i>	(2) <i>The respondent</i>
(3) <i>Commissioner</i>	(4) <i>CIT(A)</i>
(5) <i>Departmental Representative</i>	(6) <i>Guard File</i>

By order

Assistant Registrar