

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'A': NEW DELHI**

(Through Video Conferencing)

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.806/DEL/2017
[Assessment Year: 2016-17]**

Baba Gopal Dass Sahib (Talib) Trust, C/o- Shri R.K. Manjani, Advocate, Lajpat Nagar-II, New Delhi-110024	Vs.	CIT(Exemption), 26 th Floor, Tower-E2, Pratyaksha Kar Bhawan, Civic Centre, Delhi
PAN-AACTB3199F		
Assessee		Revenue

Assessee by	Sh. K. R. Manjani, Adv.
Revenue by	Sh. Satpal Gulati, CIT-DR

Date of Hearing	11.10.2021
Date of Pronouncement	21.10.2021

ORDER

PER KUL BHARAT, JM

This appeal filed by the assessee is directed against the order of the learned CIT(Exemption), New Delhi, dated 30.01.2017 against the granting registration u/s 12AA of the Income Tax Act, 1961 (hereinafter referred to 'the Act') relating to Assessment Year 2016-17.

2. The facts giving rise to the present appeal are that the assessee trust had filed two applications on 20.11.2015 in

Form No.10A seeking registration u/s 12AA of the Act. The application so filed was rejected vide order dated 20.05.2016 on the ground that the details furnished along with application and on 09.03.2016 were not sufficient for granting registration u/s 12AA of the Act. It was observed that the applicant failed to furnish the requisite details, as per Ld. CIT(Exemption), the applicant failed to produce the original certificate of Registration/MOA/Rules & Regulations/Trust Deed. However, the Ld. CIT(Exemption) gave liberty to apply afresh after complying with and completing the requisite details. Subsequently, the applicant trust, yet again made application dated 21.07.2016 in prescribed format seeking registration u/s 12AA of the Act. The application was allowed and the assessee trust was granted Registration No.DEL-BR25843-30012017 dated 30.01.2017 with effect from Assessment Year 2017-18. Thereafter, the assessee made application which was received in the office of the Ld. CIT(Exemption) on 03.02.2017 claimed therein that the registration order may be made effective from Assessment Year 2016-17, however, this application was not disposed. Aggrieved against not granting

registration w.e.f. Assessment Year 2016-17, the assessee is in appeal before this Tribunal.

3. The dispute in narrow compass is whether the assessee is entitled for registration with effect from Assessment Year 2016-17 under the facts and circumstances of the present case.

4. The Ld. Counsel for the assessee submitted that the Ld. CIT(Exemption) erred in not granting the registration with effect from Assessment Year 2016-17. He contended that the action is contrary to the settled position of law. He argued that the Ld. CIT(Exemption) passed an ex-parte order rejecting the application dated 20.11.2015 on the ground that requisite details were not furnished. He contended that the Ld. CIT(Exemption) failed to appreciate the fact that letter dated 06.05.2016 seeking certain information was received much later. The ld. Counsel for the assessee contended under the facts and circumstances of the case, the Ld. CIT(Exemption) ought to have granted registration w.e.f. Assessment Year 2016-17. The Ld. Counsel for the assessee has placed reliance on the decision of the Hon'ble Rajasthan High Court in the

case of CIT vs Garment Exporters Association of Rajasthan (2016) 386 ITR 20 (Raj.).

5. On the contrary, the Ld. CIT-DR opposed the submission and submitted that it was incumbent upon the assessee to file the requisite details as sought by the Ld. CIT(Exemption) for his satisfaction as per the provisions of law. The Ld. CIT(Exemption) was justified in rejecting the application. He further contended that the Ld. CIT(Exemption) has rightly granted exemption w.e.f Assessment Year 2017-18 as the assessee has furnished details along with fresh application.

6. We have heard the rival submissions, perused the material available on records and gone through the orders of the authorities below. There is no dispute with regard to the fact that originally the assessee had made application seeking registration u/s 12AA of the Act on 20.11.2015. The said application was rejected by the Ld. CIT(Exemption) on the ground that the assessee failed to produce the requisite details, however, the Ld. CIT(Exemption) had given liberty to apply afresh. For the sake of clarity, the relevant contents of

the decision of the Ld. CIT(Exemption) dated 20.11.2015 are reproduced as under:-

“2. On 21/12/2015, applicant has failed to file any details/documents. However, on 09/03/2016, it has filed part details and failed to produce original trust deed for verification. Therefore, it was asked (vide this office letter No.CIT(E)/12AA/2016-17224 dated 06/05/2016) to furnish following details/documents further:-

- i. Bank statement of the trust since inception.*
- ii. A copy of Balance Sheet, Income & Expenditure A/c and Receipts & Payments A/c for the F.Y. 2015-16*
- iii. Profile of the trustees in the enclosed pro forma.*
- iv. Details of donations of Rs.89,91,310/- received during the F.Y. 2015-16 giving name, Address, PAN of donors including modes of receipt.*
- v. Bills/documentary evidence in support of expenditure made on food expense of Rs.1,8,23,194/- (F.Y. 2014-15)*
- vi. Produce original Trust Deed for verification.*
- vii. Supporting documentary evidence in support of charitable activities carried out as per activity note filed.*
- viii. A copy of ITA filed for the A.Y. 2015-16.*

2.1. The applicant was asked to file the above details/documents in this office by 12.05.2016 clearly stating that in case of non compliance, it will be presumed that it has nothing to state in its favour and matter will be decided on the basis of details available on record. On the stipulated date, nobody appeared and the requisite complete details have not been filed by the applicant till date. The details furnished by the applicant along with

application and on 09/03/2016 are not sufficient for granting registration u/s 12AA of the Act. have not been filed by the

3. Further, the applicant has failed to produce original Certificate of Registration/MOA/Rules & Regulations of the society for verification. As per Rule 17 A of the I.T. Rules, 1962, the applicant is required to produce the original Certificate of Registration/MOA/Rules & Regulations/Trust Deed. In the absence of the original Certificate of Registration/ OA/Rules & Regulations/Trust Deed of the applicant, the application seeking registration u/s12AA cannot be entertained in view of the clear provisions of Rule 17A.

4. The provisions of section 12AA stipulate the following conditions for registration u/s 12AA of the I.T. Act, 1961:-

(i) The objects of the society/trust should be of charitable in nature;

(ii) The activities of the society /trust should be genuine.

5. Hence, in the absence of requisite details satisfaction w.r.t. genuineness of the activities cannot be reached. Accordingly, the application filed by the applicant for grant of registration u/s 12AA is hereby rejected.

6. The applicant is, however, at liberty to apply afresh after complying with and completing the requisite details.”

7. From the order of the Ld. CIT(Exemption), it is evident that the liberty was given to the assessee to comply with and furnishing the requisite details. Therefore, in our considered view, under the peculiarity of facts narrated hereinabove, the Ld. CIT(Exemption) should have granted registration w.e.f. Assessment Year 2016-17 as requested by

the assessee. We order accordingly. The appeal of the assessee is disposed of in terms indicated hereinabove.

8. In the result, the appeal of the assessee is allowed.

Order was pronounced in the open court on 21st October, 2021.

Sd/-

Sd/-

**[G.S. PANNU]
PRESIDENT**

**[KUL BHARAT]
JUDICIAL MEMBER**

Delhi; Dated: 21/10/2021.

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi