

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “C” BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI G.S.PANNU, PRESIDENT &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA Nos.1103 & 1104/Del/2021

[Assessment Year : 2020-21]

Ganga Jamuna Culture Foundation, J-237, Block J, Basement, Saket, New Delhi-110017. PAN-AADTG0825G	vs	CIT(E), New Delhi
APPELLANT		RESPONDENT
Appellant by	Shri Yudhistar Mehtani, CA	
Respondent by	Shri Vinay Kumar Karan, CIT DR	
Date of Hearing	25.11.2021	
Date of Pronouncement	25.11.2021	

ORDER

PER KUL BHARAT, JM :

Both appeals filed by the assessee for the assessment year 2020-21 are directed against the consolidated order of Ld. CIT(Exemption), New Delhi dated 17.09.2020 pertaining to Assessment Year 2020-21 regarding rejection of the applications seeking registration u/s 12AA and approval u.s 80G of the Income Tax Act, 1961 [“the Act”].

2. Both appeals were taken up together for hearing and are being disposed off by way of consolidated order for the sake of brevity.

3. First we take up **ITA No.1104/Del/2020** pertaining to **Assessment Year 2020-21**. The assessee has raised following grounds of appeal:-

1. *“That having regards to the facts & circumstances of the case, Ld. C.I.T(Exemption) has erred in law & on facts in the passing*

the impugned order u/s 12AA(1)(b) r.w.s 12A and that too without assuming jurisdiction as per law.

2. *That having regards to the facts & circumstances of the case, Ld. C.I.T (Exemption) has erred in law & on facts in rejecting the registration u/s 12AA(1)(b) and that too without providing adequate opportunity of being heard and in violation of principles of natural justice.*
3. *That in any case and in any view of the matter, action of Ld. C.I.T (Exemption) in passing the order u/s 12AA(1)(b) r.w.s 12A, is bad in law & against the facts and circumstances of the case.*
4. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

4. Facts giving rise to the present appeal are that the assessee filed applications through electronic mode on 09.12.2019 in Form No.10A and on 18.12.2019 in Form No.10G seeking registration u/s 12AA and approval u/s 80G of the Act. Ld.CIT(E) observed that the assessee was issued letter dated 20.01.2020. Thereby, calling upon the assessee to submit certain documents in support of its claim of registration 12AA/80G of the Act and the case was fixed for hearing on 04.02.2020. On that day, no one was appeared. The applicant was further afforded opportunities vide letters dated 19.06.2020 & 04.09.2020 for compliance on 26.06.2020 & 11.09.2020 respectively in support of its claim u/s 12AA/80G of the Act. The applicant did not file any response. In response to the said notice, Ld.CIT(E) in the absence of the relevant details proceeded to reject the applications filed by the assessee in its absence.

5. Aggrieved against this, the assessee preferred this appeal.

6. At the outset, Ld. Counsel for the assessee submitted that owing to the Covid-19 Pandemic, the proceedings could not be attended and the requisite details could not be filed. Ld. Counsel for the assessee submitted that no meaningful and effective opportunity was granted to the assessee. He submitted that in the interest of principle of natural justice, an opportunity may be granted to the assessee and the applications may be restored to Ld.CIT(E) for decision afresh. Ld. Counsel for the assessee submitted that the assessee would not seek any adjournment without any reasonable cause.

7. Per contra, Ld.CIT DR, Shri Vinay Kumar Karan, strongly opposed these submissions and submitted that the assessee was thoroughly negligent. Therefore, the Ld.CIT(E) has rightly rejected the applications. However, he submitted that Hon'ble Tribunal may decide the issue as deem fit under the facts and circumstances of the present case.

8. We have heard the rival submissions and perused the material available on record and gone through the impugned order of the Ld.CIT(E). We find that there is no dispute with regard to the fact that the impugned order was passed in the absence of the assessee. It is seen from the records that Ld.CIT(E) had given opportunity vide letters dated 20.01.2020, 19.06.2020 & 04.09.2020. In ordinary circumstances, these opportunities would have been sufficient for the assessee. However, looking to the fact that there has been wide spread of Covid-19 pandemic and on some

occasions, the Government had also issued instructions for imposing lockdown. Therefore, we are of the considered view that to sub-serve the interest of principle of natural justice and to provide meaningful opportunity for effective representation, the impugned order deserves to be set aside. We hereby, set aside the impugned order and restore the application u/s 12AA of the Act dated 09.12.2019 to the file of Ld. CIT(E) to decide it afresh after causing necessary inquiry in accordance with law. Therefore, grounds raised by the assessee are allowed for statistical purposes.

9. Now, we take up assessee's appeal in **ITA No.1103/Del/2020** pertaining to **Assessment Year 2020-21**. The assessee has raised following grounds of appeal:-

1. *“That having regards to the facts & circumstances of the case, Ld. C.I.T (Exemption) has erred in law & on facts in the passing the impugned order u/s 80G(5)(vi) and that too without assuming jurisdiction as per law.*
2. *That having regards to the facts & circumstances of the case, Ld. C.I.T (Exemption) has erred in law & on facts in rejecting the approval u/s 80G and that too without providing adequate opportunity of being heard and in violation of principles of natural justice.*
3. *That in any case and in any view of the matter, action of Ld. C.I.T (Exemption) in passing the order u/s 80G, is bad in law & against the facts and circumstances of the case.*

4. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

10. The facts and issues are identical as were in ITA No.1104/Del/2020 pertaining to Assessment Year 2020-21. Ld. representatives of the parties have adopted the same arguments as were in ITA No.1104/Del/2020 wherein we have set aside the impugned order by observing as under:-

8. *“We have heard the rival submissions and perused the material available on record and gone through the orders of the authorities below. We find that there is no dispute with regard to the fact that the impugned order was passed in the absence of the assessee. It is seen from the records that Ld.CIT(E) had given opportunity vide letters dated 20.01.2020, 19.06.2020 & 04.09.2020. In ordinary circumstances, these opportunities would have been sufficient for the assessee. However, looking to the fact that there has been wide spread of Covid-19 pandemic and on some occasions, the Government has also issued instructions for lockdown. Therefore, we are of the considered view that to sub-serve the interest of principle of natural justice and to provide effective meaningful opportunity for effective representation, the impugned order deserves to be set aside. We therefore, hereby set aside the impugned order and restore the applications u/s 12AA of the Act dated 09.12.2019 to the file of Ld. CIT(E) to decide it afresh after causing necessary inquiry in accordance with law. Therefore, grounds raised by the assessee are allowed for statistical purposes.”*

11. The facts in this appeal are identical as well as in ITA No.1104/Del/2020 pertaining to Assessment Year 2020-21. Ld. Authorized

representatives of the parties have adopted the same arguments as were in ITA No.1104/Del/2021. For the same reasoning, we deem it proper to set aside the impugned order and restore the application dated 18.12.2019 u/s 80G of the Act to the file of Ld.CIT(E) to decide it afresh in accordance with law. Needless to say that Ld.CIT(E) affords reasonable opportunity for hearing to the assessee and the assessee is directed not to seek any adjournment without any reasonable cause or in the nature of medical emergency.

12. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 25th November, 2021.

Sd/-
(G.S.PANNU)
PRESIDENT

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Amit Kumar

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI