

अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER
AND
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER
Virtual Hearing**

ITA No.888/Ind/2018

Assessment Year:

M/s. M.P. Council for Vocational Education & Training Bhopal (Appellant)	<u>बनाम/</u> Vs.	CIT(E) Bhopal (Respondent)
P.A. No.AACAM8149H		
Appellant by	Ms. Nisha Lahoti AR,	
Revenue by	Shri P.K. Mitra, CIT-DR	
Date of Hearing:	01.02.2022	
Date of Pronouncement:	10.02.2022	

आदेश / O R D E R

PER BHAGIRATH MAL BIYANI, A.M:

This is an appeal by assessee against the order No. ITBA/EXM/S/EXM1/2018-19/1012269697(1) dated 17.09.2018 of CIT (Exemption), Bhopal u/s 12AA(1)(b)(ii) of Income-tax Act, 1961.

The assessee has raised following Grounds:

“1. The Ld. CIT has erred in not granting registration u/s 12AA without considering the application form and evidences submitted along with application and relying on report of Ld. AO which was not as per law. Assessee is a State Government Organisation and the time of above notice, was in process of shifting its office thus couldn't attend the hearing due to non-receipt of notice.

2. That on the basis of above facts, the assessee creeps to leave, to arch, to argue, to amend any of the grounds of the appeal on or before the date of hearing.”

2. The assessee is a society established by the notification of the State Govt. of Madhya Pradesh, registered under M.P. Societies Registration Act, 1973 vide Registration No. 01/01/01/22161/10 dated 26/07/2010. On 31/03/2018, the assessee filed an application in Form No. 10A alongwith the requisite documents to the Ld. CIT(Exemption), Bhopal for grant of registration u/s 12AA of Income-tax Act, 1961. However, the Ld. CIT(Exemption) rejected the application and refused registration vide Para No. 2 to 6 of his order, by observing as under:

“2. In order to verify the objects and activities of the applicant and to ascertain the fulfillment of the conditions mentioned under section 12AA, the applicant was given opportunity of being heard by issuing notice dated 16/08/2018 fixing hearing on 30/08/2018. It is seen from the acknowledgement placed on record that the said notice was served to the applicant on 23/08/2018.

3. In response to the above mentioned notice, none attended or filed any written submission or sought any adjournment. Thereafter, last and final opportunity notice dated 03/09/2018 was issued fixing the date of hearing on 10/09/2018. It is seen from the acknowledgement placed on record that the said notice was served to the applicant on 07/09/2018. In response to the above mentioned notice also no compliance is received from the applicant assessee.

4. Further, the JCIT & A.O. have also not recommended to grant registration u/s 12A in view of following grounds: The JCIT / A.O. have reported as under:-

On perusal of submission furnished by the assessee, no charity has been reflected as per section 2(15) of the Income-tax Act. On verification of the record it is observed that the assessee has claimed profit in previous years, but has not offered for taxation, which has no exemption entitled under existing provision of the Act. Society is mainly engaged in the implementation of Government Schemes to public which are sourced by the grants accorded by the State Govt. which is not an act of charity.

5. Considering the above and in the absence of requisite documents as required vide above mentioned notices, it is very difficult to verify the genuineness of the charitable activities of the society carried out are in accordance with the objects of the society. Since the applicant society has failed to attend the proceedings and to produce the books of accounts and documentary evidences in support of charitable activities being carried out from time to time, there is no alternative left with the undersigned except to decide the application on ex-parte on the basis of material available on record on merits.

6. In the light of above discussion, it is held that the applicant society is not entitled for registration u/s 12AA of the I.T. Act, 1961. Accordingly, the application in form No. 10A, received in this office on 31/03/2018 seeking registration u/s 12AA is hereby rejected and registration sought u/s 12AA is refused.”

3. Aggrieved by order of Ld. CIT(Exemption), the assessee has filed this appeal and now before us.

4. The Ld. A/R carried our attention to the Para No. 2 to 6 of the order of Ld. CIT(Exemption) cited above as also the Paper-Book submitted by him and argued that the assessee had submitted a brief note on the activities, copies of bye-laws, details of the members and accounts of latest three years alongwith the Application in Form No. 10A itself. He further referred to Para No. 3 of the Memorandum of Association of assessee placed on Page No. 67 of the Paper-Book and briefly explained a few objects to demonstrate that the assessee is engaged in promotion of vocational education, training, skill development etc. in the State of Madhy

Pradesh. The Ld. A/R further submitted that the Governing Board of assessee consists of the Ministers of Madhya Pradesh and certain officers of the Govt. and the activities of the assessee are naturally in conformity with the objects. With these submissions, it is the contention of Ld. A/R that the assessee a fit body for registration u/s 12AA but the Ld. CIT(Exemption) has just adopted the recommendation of JCIT / AO and did not consider the documents filed by the assessee with the Application in Form No. 10A itself. The Ld. A/R, therefore, submitted that the Ld. CIT(A) has erred in not granting registration.

5. Per contra, the Ld. D/R argued that since the assessee did not comply with the notices dated 16.08.2018 and 03.09.2018, the only option available to Ld. CIT(Exemption) was to reject the application, which he did. The Ld. D/R, however, agreed that the matter may be set aside to the file of Ld. CIT(Exemption) for deciding the matters afresh, with necessary directions to the assessee for making compliance.

6. We have given a careful consideration to the submissions of both sides as also the material available on record. We observe that in the Ground No. 1 itself, the assessee has admitted the non-compliance of the notices but also stated that assessee is a State Government Organisation and at the time of notices, it was in the process of shifting its office and therefore could not attend the hearing. Having regard to this fact and the consent of Ld. D/R to set aside the matter to CIT(Exemption), we think it appropriate to

refer the matter back to the file of Ld. CIT(Exemption) for deciding the matter afresh.

7. The Ld. CIT(A) shall give an opportunity to the assessee and decide the application on merit after considering the response of assessee. The assessee is also directed to avail the opportunity and make compliance without fail.

8. In the result this appeal of assessee is allowed for statistical purpose.

Order was pronounced as per Rule 34 of I.T.A.T. Rules 1963 on 10.02.2022.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Indore; दिनांक Dated : 10/02/2022

Patel/Sr. PS

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Assistant Registrar, Indore