

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA BENCH "A", KOLKATA**

**BEFORE SHRI A.T. VARKEY, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No.542/Kol/2020

BISHOP GEORGE FOUNDATION 2/1a, Surah Cross Lane, Kolkata-700010. PAN: AAICB5212C	Vs.	CIT(EXEMPTION), Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : None.
Respondent by : Md. Ghayas Uddin, CIT (DR)

Date of Hearing : 03.02.2022
Date of Pronouncement : 23.02.2022

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal is against the order passed by Ld. CIT(Exemption), Kolkata u/s 12AA of the Income-tax Act, 1961 (hereinafter referred to as the 'Act') dated 08.09.2020.

2. None appeared on behalf of the assessee.
3. Grounds of appeal taken by the appellant in the present appeal before us are reproduced as under:

i. That on the facts and circumstances of the case and also in law, the order passed by the Ld. CIT(E), Kolkata u/s 12AA(1)(b)(ii) rejecting the application for approval of the appellant as a Charitable Institution for being bad and devoid of any merit, is liable to be cancelled and reversed in its entirety.

ii. That on the facts and circumstances of the case and also in law, Ld. CIT(E), Kolkata has erred in hastily rejecting the application for

approval u/s 12AA(1)(b)(ii) for the alleged ground of non-compliance on 07.09.2020, a date that had been subjected to complete state-wide lockdown, by virtue of a notification, issued by the Government of West Bengal constituting constraining circumstances.

iii. Even otherwise for the sake of justice and fairness, Ld. CIT(E), Kolkata while alleging and thus, proceeding to reject the application vide order, dated 08.09.2020, ought not to have ignored the submission of the concerned details and therefore, the ready availability thereof, on that very day and therefore, ought to have addressed the application on merit, instead.

iv. That the appellant craves leave to go for additional grounds, effect modification of one or more of foregoing grounds and not press any particular ground, either before or during the appeal hearing.”

4. On perusal of the impugned order dated 08.09.2020, it is noted that the Ld. CIT(Exemption) has rejected the application made by the appellant for registration u/s 12AA in limine. The impugned order is reproduced as under:

“M/s. Bishop George Foundation filed an application in Form 10A for registration u/s 12AA of the Income Tax Act, 1961 on 20.02.2020.

The matter was fixed for hearing on 25.03.2020, 27.07.2020 and 14.08.2020. The assessee submitted certain details.

On the basis of the details submitted, the case was fixed on 07.09.2020 requesting to submit certain specific details. But there was no compliance.

Hence, application for registration u/s 12AA is hereby rejected in limine.”

5. From the impugned order, we find that the application for registration u/s 12AA made by the appellant has been rejected in limine by the Ld. CIT(Exemption). We do not countenance this action of the Ld. CIT(Exemption) in the light of the fact that the dates on which hearings were fixed were under the COVID-19 pandemic lockdown. Further, from ground no. (iii) *supra*, it is noted that the appellant had taken a ground on filing of details which were on record before the Ld. CIT(Exemption)

while passing the impugned order. Ld. CIT(Exemption) has not discussed or considered the aforesaid submissions of the appellant while rejecting the application for registration u/s 12AA of the Act in limine.

6. Be that as it may, it is a trite law that so far as granting of registration u/s 12AA of the Act is concerned, the jurisdiction of CIT(Exemption) is only to verify the objects of the trust / institution and the genuineness of its activities, meaning thereby that he has to satisfy himself that the objects are charitable in nature and that the activities are being carried on or to be carried on are genuine, and nothing else.

7. In the light of above observations and in the interest of justice and fair play, we set aside the impugned order and restore the matter back to the file of Ld. CIT(Exemption) to consider the application made for registration u/s 12AA afresh by providing reasonable opportunity of being heard to the assessee. The assessee is also directed to be diligent and comply with the requirements as per law of the Ld. CIT(Exemption) for expeditious disposal of the application of registration made u/s 12AA of the Act.

8. In the result, the appeal of the assessee is allowed for statistical purposes as aforesaid.

Order pronounced in the open court on 23.02.2022.

**Sd/-
(A.T. VARKEY)
JUDICIAL MEMBER**

**Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

Kolkata, Dated: 23.02.2022.
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Bishop George Foundation, Kolkata.
2. The Respondent: CIT(Exemption), Kolkata.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata