

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी.”, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH**  
**BENCH ‘B’ CHANDIGARH**

**BEFORE: SMT. DIVA SINGH, JUDICIAL MEMBER &**  
**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No. 326/CHD/2020**  
[Assessment Year 2020-21]

Samuh Samaj Sangathan, 11368, St. No. 6, Pavitar Nagar, Haibowal Kalan, Ludhiana.	बनाम VS	The CIT (Exemptions), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AAZTS1785R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None (Adjournment Application)  
राजस्व की ओर से/ Revenue by : Shri Sarabjit Singh, CIT

तारीख/Date of Hearing : 18.01.2022  
उद्घोषणा की तारीख/Date of Pronouncement : 17.02.2022

**VIRTUAL HEARING**

**आदेश/ORDER**

**PER DIVA SINGH**

The present appeal has been filed by the assessee wherein the correctness of the order dated 22.09.2020 of CIT(Exemptions) Chandigarh passed u/s 12AA(1)(b)(ii) of the Income Tax Act is assailed on the following ground :

*“By arbitrarily and wrongly disallowed Registration u/s 12A/AA.*

2. At the time of hearing, an adjournment application was moved on behalf of the assessee pleading for time on account of illness of the C.A. Considering the material available on

record, the request seeking time was rejected. The reasons for the said decision as borne out from the record are that the appeal is spilling over from 17.01.2022 on which date the Department had sought an adjournment. On the said date, it had been noticed that relevant facts necessary for adjudication were considered to be not made available by the assessee. Paragraph 5 and 7 of the impugned order was read out. When the same was read alongwith paras 3 and 4 of the statement of facts, it appeared the documents were sent as attachments on e-mail. Accordingly, considering the departmental request, the adjournment request was accepted requiring the department to be ready to address their arguments on the next date. The facts as noticed and pointed out at the time of hearing on 17.01.2022 highlighted for the benefit of the department were that the application filed by the assessee seeking registration u/s 12AA was filed electronically on 28.02.2020 was considered by the CIT(E) Chandigarh wherein it was noticed that the assessee was an ongoing entity in operation since 31.03.2009. Accordingly, a questionnaire was issued to the assessee on various issues including the submissions on facts to address the activities and substantiate whether these were in alignment with the aims and objects of the Trust. In the response made available by the assessee, certain shortcomings were noticed by CIT (E) including shortcoming in paragraph 5 of the impugned

order. These were read out for the benefit of the Department on 17.01.2022. The said para reads as under :

*“5. In response, the applicant has replied online on ITBA. On perusal of the reply of the applicant, the additional queries were sent to the applicant on 16.09.2020 and the applicant has replied online through email on 21.09.2020. **On perusal of the reply, it is observed that the applicant society has not submitted the certified copy of MOA and bye-laws duly certified by competent authority. In the absence of certified copy of MOA, the genuineness of activities of the society cannot be corroborated with the stated aims and objects of the society.**”*

**(emphasis supplied)**

3. It was pointed out that these reasons were repeated in para 7 of the impugned order also as a result of which the application moved ultimately stood rejected. In the **Statement of facts** filed by the assessee alongwith the Grounds in the appeal Memo it was seen that the following facts are stated :

*3. In response, the reply was submitted online on ITBA within time frame given. On perusal of the reply the additional queries were received on 16.09.2020 and the reply was submitted online through email on 21.09.2020.*

*4. The application for registration was denied on 22.09.2020 vide notice number :ITBA/EXM/S/EXM1/2020-21/1028033566(1), on the ground stating that applicant has not submitted certified copy of MOA and bye-laws duly certified by competent authority & Non receipt of Audited Financial Statements.*

***However Certified Copy Of MOA & Bye Laws was attached in the email through which reply was submitted on 21.09.2020.***

*We were not required by law to get our accounts Audited hence we submitted unaudited financial statements alongwith aforementioned reply on 21.09.2020.*

**(emphasis supplied)**

4. Accordingly, it was noticed that apparently the copy of the MOA and Bye-laws stated to have been attached in the e-mail

were possibly not received by the department and thus, since as per facts, the relevant documents are available with the assessee, it was deemed appropriate to remand the issue back.

5. Thus, on these lines, in order to grant time to the department to study the case in the appeal, it was adjourned to the next date i.e. 18.01.2022.

6. Accordingly, in view of these facts available on record, adjournment application moved by the assessee was rejected and the department was heard.

7. Mr. Sarabjit Singh, CIT-DR considering the material available on record had no objection in the facts and circumstances for remanding the matter back to the CIT (Exemptions).

8. Accordingly, after going through the above record, in the light of the above peculiar facts and circumstances, the impugned order is set aside back to the file of the ld. CIT(E) with the direction to pass an order in accordance with law after giving the assessee a reasonable opportunity of being heard. The assessee in its own interests is directed to ensure that the relevant copies are made available and any other deficiencies on facts and submissions pointed out by the CIT(E) Chandigarh be complied with fully and fairly. The opportunity so made available, it is hoped is utilized fairly and fully by the assessee

as in the eventuality of abuse of the trust reposed, it is made clear that the CIT(E) shall be at liberty to pass an order on the basis of material available on record. Said order was pronounced at the time of virtual hearing itself via Webex.

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

Order pronounced on 17<sup>th</sup> February, 2022.

**Sd/-**  
**(VIKRAM SINGH YADAV)**  
**लेखा सदस्य/ Accountant Member**

**Sd/-**  
**(DIVA SINGH)**  
**न्यायिक सदस्य/ Judicial Member**

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar