

IN THE INCOME TAX APPELLATE TRIBUNAL "C"
(Virtual Court Hearing) BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

I.T.A. No.357/Kol/2020
Assessment Year: 2020-21

Society for Institute of Advanced ManagementAppellant
C/o. S.N. Ghosh & Associates,
Advocates,
2, Garstin Place, 2nd Floor, Suite No.203,
Off Hare Street, Kolkata-1.
[PAN: AAAAS5992G]

vs.

CIT(Exemption), Kolkata.....Respondent

Appearances by:

Shri Somnath Ghosh, Advocate, appeared on behalf of the appellant.

Shri Raju Lapcha, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 17, 2022

Date of pronouncing the order : March 02, 2022

Hearing through Video Conferencing

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the appellant-society against the order dated 27.02.2020 of the Commissioner of Income Tax (Exemptions), Kolkata [hereinafter referred to as 'CIT(E)'] agitating against the cancellation of registration granted u/s 12AA of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the ld. counsel for the assessee has invited our attention to the impugned order of the ld. CIT(E) stating that the same is an ex parte order. He has contended that no proper opportunity was granted to the assessee to present its case in response to the show-cause notice issued by the ld. CIT(E). Only the notice was received, however, due to unavoidable circumstances, the counsel for the assessee has sought adjournment on that date. However, thereafter the notices were served on the portal which did not come to the notice of the assessee.

The ld. counsel has further submitted that the sole ground on the basis of registration of the appellant-society has been cancelled was that CIT(E) observed that as per the balance

sheet of the appellant-society as on 31.03.2018, the society had invested in equity shares with IGL of Rs.5,43,35,000/- and in Zoom Enterprises Ltd. of Rs.43,25,000/- which investment was not as per the provision of section 11(5) of the Act. The Id. CIT(E), therefore, held that section 13(1)(d) was attracted as provisions of section 11(5) had been violated. The Id. CIT(E), therefore, cancelled the registration of the appellant-society invoking section 12AA(4) of the Act. The Id. counsel for the appellant-society has further submitted that the Id. CIT(E) has not followed the prescribed procedure for cancellation of registration as provided u/s 12AA of the Act. The Id. counsel has further submitted that the registration was granted to the appellant-society u/s 12AA on 11.07.2019 w.e.f. A.Y 2020-21 onwards whereas the investments in equity shares were made by the appellant-society prior to the grant of registration. That no violation of any provisions/required conditions has been done by the appellant-society after granting of registration u/s 12AA of the Act.

The Id. DR, on the other hand, has relied upon the findings of the lower authorities.

3. We have heard the contentions of both the parties and gone through the records. We find that at page 6 of paper-book, there is a copy of the order of registration u/s 12AA of the Act dated 11.07.2019, para (iii) of the said order is relevant, which is reproduced as under:

*“III. After considering the material available on record, the appellant trust/society/non-profit company is hereby granted registration with salient activities as **Education** and the provisions of sections 11 and 12 shall apply in the case from the Assessment Year 2020-21.”*

4. A perusal of the above part of the order clearly reveals that the appellant-society has been granted registration with the stipulation that the provisions of section 11 and 12 of the Act shall apply in the case from the assessment year 2020-21, which means the relevant financial year will be 2019-20 for which the provisions of section 11 and 12 would apply in the case of the appellant-society. However, a perusal of the impugned order of the Ld. CIT(E) reveals that the Ld. CIT(E) has taken cognizance of the balance sheet of the appellant-society as on 31.03.2018 which shows that the alleged investments made in equity shares were made as on 31.03.2018, which was prior to the grant of registration to the appellant-society. There is no allegation that the appellant-society has

committed any violation of the provisions of section 11 and 12 of the Act after grant of registration.

In view of this, the order of cancellation of registration of the appellant-society, on the basis of the investments made prior to grant of registration when there was no such condition imposed on the appellant-society to comply the provisions of section 11 and 12 of the Act, cannot be held to be justified. The impugned order of the Id. CIT(E) is set aside and the registration of the appellant-society is ordered to be restored and the appeal of the appellant-society stands allowed.

5. In the result, the appeal of the assessee stands allowed.

Kolkata, the 2nd March, 2022.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: .02.2022.

RS

Copy of the order forwarded to:

1. Society for Institute of Advanced Management
2. CIT(Exemption), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches