

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"SMC" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 183/JP/2021

Pandit Deendayal Upadhyaya Shekhawati University Behind Govt. S.K. College, Sikar	बनाम Vs.	CIT Exemption, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAAGP0264Q		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P. C. Parwal (C.A.)
राजस्व की ओर से / Revenue by : Sh. Sanjay Dhariwal (CIT)

सुनवाई की तारीख / Date of Hearing : 10/03/2022
उदघोषणा की तारीख / Date of Pronouncement : 15/03/2022

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This is an appeal filed by the assessee directed against the order of the CIT(E), Jaipur dated 08.07.2020 order passed u/s. 12AA(1)(b)(ii) of the Income Tax Act, 1961 (in short "the Act").

2. The Assessee raised the following grounds of appeal:

"1. The ld. CIT(E) has erred on facts and in law in rejecting the application of assessee for grant of registration u/s 12AA of Income Tax Act, 1961.

2. The ld. CIT(E) has erred on facts and in law in rejecting the application by incorrectly holding that assessee has failed to produce details and documents in support of his claim for registration ignoring

that the required documents for registration was filed along with the application in Form 10A.

3. The ld. CIT(E) has erred on facts and in law in passing the order without providing sufficient opportunity of being heard ignoring that on 08.04.2020 when he required the assessee to submit certain documents/ explanation and again on 17.06.2020 when one more opportunity was given, the country was grappling with Covid-2019 and therefore, by The Taxation And Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020 read with Notification dt. 24.06.2020, the time limit for filing of reply or passing of order was extended to 31.03.2021 but without waiting for the same he passed the order on 08.07.2020.”

3. The brief facts of the case are the assessee society was constituted under the Shekhawati University, Sikar Act, 2012 by an Act of State Legislature w.e.f. 23.08.2012 by way of Notification No.F-2(42) Vidhi/2/2012 dt. 17.10.2012 published in the Official Gazette. The main object of society is to make provision for imparting education in different branches of learning. It filed an application seeking registration u/s 12AA of the IT Act, 1961 in Form No.10A online on 07.12.2019. The Ld. CIT(E) observed that a notice dt. 16.03.2020 was issued at the e-mail address requiring the assessee to submit certain documents/ explanation by 08.04.2020 along with original Trust Deed/MOA for verification but no compliance was made by the assessee. One more opportunity was provided vide notice dt. 11.06.2020 through which date of hearing was fixed on 17.06.2020 but this time also no compliance was made.

4. The Ld CIT (E) observed as under:-

“4. The assessee did not submit original documents regarding establishment of the trust/society as well as evidences in support of his claim. Under Rule 17A of Income Tax Rules, 1962 the applicant is required to produce original document regarding establishing of the trust/society for verification but the same has not be done by the applicant. Moreover, the applicant also not furnished any evidence/document of society/trust carrying out its activity from

the premise mentioned by it in form 10A. Further, no details in respect of Bank A/c statements for last three years (as applicable) have been furnished as well as the I/E A/c & Balance sheet of last three years (as applicable).

5. Aggrieved by the CIT(E) order, the assessee is in appeal before us. The Ld AR for assessee submitted a detailed Written submissions which was received by the office Registry on 09.03.2022 along with Form 10AC which are as under :-

“1. At the outset it is submitted that the Ld. CIT(E) has passed the order without providing sufficient opportunity of being heard in as much as during the period April, 2020 to June, 2020 when he called for the details the country was grappling with Covid-2019 and therefore by The Taxation And Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020 read with Notification dt. 24.06.2020, the time limit for filing of reply or passing of order was extended to 31.03.2021. However, without waiting for the same he passed the order on 08.07.2020. Thus, passing the order without providing sufficient opportunity of being heard is illegal & bad in law. For this purpose reliance is placed on the decision of Hon’ble ITAT, Jodhpur Bench in case of Urban Improvement Trust, Bhilwara Vs. CIT(E) (copy enclosed) where at Para 5 of the order it is held as under:-

5. We have considered the rival contentions and carefully perused the material placed on record. From perusal of record, we observed that the Ld. CIT(E) has dismissed the application of the assessee for seeking registration U/s 12AA of the Act on the ground that the assessee has failed to provide required documents which are necessary for granting registration. We observed that an application in Form No. 10A seeking registration u/s 12AA of the Act was filed by the assessee on 14/12/2019. A notice dated 12/03/2020 was issued to the assessee requiring to submit certain documents/explanations by 01/04/2020 alongwith original Trust Deed/MOA for verification. However, one more

opportunity was provided to the assessee through which date of hearing was fixed as 10/06/2020 and when nobody appeared then dismissed the application of the assessee. We observed from perusal of the record that sufficient opportunity of being heard was not provided to the assessee. When the documents was called from the assessee by the ld. CIT(E) in the month of April 2020 to June, 2020, there was panic situation due to Covid-19 pandemic. Considering the totality of facts and circumstances of the case, one more opportunity should be granted to the assessee, therefore, we restore the matter back to the ld. CIT(E), for passing the order afresh after providing due and reasonable opportunity of being heard as per law. The assessee is also directed to cooperate with the ld. CIT(E) in disposing of the matter. We order accordingly.

2. *It is further submitted that the various objections raised by the Ld. CIT(E) cannot be a basis for denying registration u/s 12AA to the assessee. The Ld. CIT(E) has incorrectly held that assessee has failed to produce details and documents in support of its claim for registration ignoring that the required documents for registration was filed along with the application in Form No.10A. Further Rule 17A as substituted by the Income-tax (First Amendment) Rules, 2018, w.e.f. 19.02.2018 provides that an application u/s 12A for registration of a charitable or religious trust or institution shall be made in Form No.10A accompanied by self-certified copy of the instrument creating the trust or establishing the institution, where the trust is created or institution is established under an instrument. The assessee has filed the certified copy of the bye laws of trust and the annual accounts of three years along with the application. Thus, when neither the Act nor the Rules provide for producing the original document as a condition precedent for granting registration, the same should not be denied on this ground. Hence, it is incorrect on part of CIT(E) to held that assessee has failed to provide details and documents in support of its claim for registration u/s 12AA of the Act.*

3. *Without prejudice to above, it is submitted that subsequently the assessee has been granted registration u/s 12A(1)(ac)(vi) of the IT Act, 1961 vide order dt. 27.10.2021 from AY 2022-23 to 2024-25 (copy enclosed). In view of above, Ld. CIT(E) be directed to grant registration u/s 12AA to the assessee society.”*

6. The Ld. DR, on the other hand strongly supporting the order of the CIT(E) submitted that there is no merit in arguments taken by the Ld. AR of the assessee .

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. From perusal of record, we observed that Ld.CIT(E) has rejected the application of the assessee for seeking registration u/s 12AA of the Act on the ground that the assessee has failed to provide required documents which are necessary for granting registration. We observed that an application in Form No. 10A seeking registration u/s 12AA of the Act was filed by the assessee on 17.12.2019. A notice dated 16.03.2020 was issued to the assessee requiring to submit certain documents/explanations by 08.04. 2020 alongwith original Trust Deed/MOA for verification. However, one more opportunity was provided to the assessee through which date of hearing was fixed on 17.06.2010 and when nobody appeared then dismissed the application of the assessee. We observed from perusal of the record that sufficient opportunity of being heard was not provided to the assessee. When the documents was called from the assessee by the Id. CIT(E) in the month of April 2020 to June, 2020, there was panic situation due to Covid-19 pandemic. Considering the totality of facts and circumstances of the case, one more opportunity should be granted to the assessee, therefore, we restore the matter back to the Id. CIT(E) for passing the order afresh after providing due and reasonable opportunity of being heard as per law. The assessee is also directed

to cooperate with the ld. CIT(E) in disposing of the matter. We order accordingly.

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

Order pronounced in the open Court on 15/03/2022.

Sd/-

(राठोड कमलेश जयन्तभाइ)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 15/03/2022.

*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Pandit Deendayal Upadhyaya Shekhawati University, Sikar
2. प्रत्यर्थी / The Respondent- CIT Exemption, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 183/JP/2021 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar