IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI

BEFORE,
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No.8806/Del/2019
(ASSESSMENT YEAR-NIL)

Maa Chintpurni Mandir Trust Railway Road Opp. Sec-4 Gurgaon, Haryana PAN-AADTM 1289L		CIT(Exemptions) Chandigarh
(Appellant)		**(Respondent)**

Appellant By	None
Respondent by	Ms. Rinku Singh, CIT-DR

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the impugned order of Learned Commissioner of Income Tax (Exemptions)-Chandigarh, [Ld. CIT(E)", for short], dated 18.09.2019 wherein the Ld. CIT(E) dismissed assessee's application registration u/s 12A/12AA of Income Tax Act, 1961.

(B) Grounds taken in this appeal of Assessee are as under:

> *"1. The order dated 18.09.2019 passed by the learned CIT(Exemptions), Chandigarh is bad in law on facts and deserves to be quashed.*
>
> *2. The ld. CIT(Exemptions) has erred in passing the ex parte order without considering written submissions and no notice for further reply was received by assessee.*
>
> *2.1 The ld. CIT(Exemptions) has erred in not verifying service of notice/questionnaire as mentioned in order.*
>
> *2.2 The ld. CIT (Exemptions) has erred in passing the ex parte order without discussing the same on merits of the appeal.*
>
> *2.3 That passing an ex parte order is without any basis, arbitrary and justifiable and the learned CIT (Appeals) erred in passing the same."*

(C) On 27.04.2019, the assessee was asked by Ld. CIT(E) to furnish numerous documents/clarifications; which was complied with by the assessee within prescribed time. Further questionnaire was once again sent by the Ld. CIT(E) on 06.09.2019, requiring the assessee to submit more documents/clarifications on 12.09.2019. The assessee did not attend the hearing on 12.09.2019. Another opportunity was given by the Ld. CIT(E) on 12.09.2019, requiring the assessee to submit the documents/clarifications on or before 17.09.2019. The assessee did not attend the hearing on 17.09.2019. Taking adverse view of the assessee's non attendance on 12.09.2019 and 17.09.2019, the Ld. CIT(E) rejected the

assessee's application regarding registration u/s 12A/12AA of the Income Tax Act.

(C.1) At the time of hearing before us, the Ld. Commissioner of Income Tax, Departmental Representative ("Ld. CIT-DR" for short) submitted that the impugned order dated 18.09.2019 of the Ld. CIT(E) may be set aside and the matter regarding registration u/s 12A/12AA of Income Tax Act may be restored back to the Ld. CIT(A) for fresh order in accordance with law after providing reasonable opportunity to the assessee.

(C.2) We have perused the materials on record. We have heard the Ld. CIT-DR. We find that hearing was fixed by the Ld. CIT(E) on 17.09.2019 vide notice dated 12.09.2019. The intervening period between 12.09.2019 and 17.09.2019 was only 4 days. Earlier, hearing was fixed by the Ld. CIT(E) on 12.09.2019, vide notice dated 06.09.2019 and the intervening period between 06.09.2019 and 12.09.2019 was only 5 days. Considering the usual time taken by Postal Department in the service of notice, in the facts and circumstances of the case before us, we are of the view that the aforesaid duration of merely 4 and 5 days respectively, was too

short for the assessee to be able to make due compliance. In the facts and circumstances of the present case, we are of the view that the Ld. CIT(E) did not provide reasonable opportunity to the assessee. We also find that the impugned order dated 18.09.2019 of the ld. CIT(E) is a non-speaking order on the merits; because the matter under consideration regarding registration u/s 12A/12AA of the Income Tax Act was not decided by Ld. CIT(E) on merits; and instead, the Ld. CIT(E) dismissed assessee's application in a summary manner taking adverse view of assessee's non attendance on 17.09.2019 and 12.09.2019, for which, in any case reasonable opportunity was not provided by the ld. CIT(E).

(C.2.1) In view of the foregoing, and as Ld. CIT-DR is in agreement, we set aside the impugned order dated 18.09.2019 and restore the matter regarding registration u/s 12A/12AA of the Act to the file of the Ld. CIT(E) for denovo order in accordance with law after providing reasonable opportunity to the assessee. Further, we direct the Ld. CIT(E) to pass speaking order on merits when he passes denovo order in pursuance of the aforesaid direction. The present appeal is restored back in accordance with these directions

and all the grounds of appeal are treated as disposed of in accordance with these directions.

(D) In the result, for statistical purposes, the appeal is partly allowed.

This order was already pronounced orally on 27th June, 2022 in Open Court, in the presence of Senior Departmental Representative for Revenue, after conclusion of the hearing. Now this order in writing is signed today on 30.06.2022.

Sd/-	Sd/-
(CHALLA NAGENDRA PRASAD)	**(ANADEE NATH MISSHRA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated:30.06.2022

Pk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW, DELHI