

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

(Conducted through Virtual Court)

**ITA No.88/Ind/2021
Assessment Year: 2020-21**

Shri Golu Tanu Smariti Sansthan Charitable Trust Agar, Malwa	Vs.	CIT(Exemption) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AAYTS9249M		
Assessee by	None	
Revenue by	Shri P.K. Mitra, CIT-DR	
Date of Hearing	22.06.2022	
Date of Pronouncement	29.06.2022	

ORDER

Per B.M. Biyani, A.M.:

1. This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Exemptions), Bhopal [**“Ld. CIT(E)”**] dated 01.09.2020 u/s 12AA(1)(b)(ii) of the Income Tax Act,1961 [**“the Act”**].

2. The assessee has raised following grounds:

“1. The ld. CIT exemption erred in passing the order for rejection of registration of the trust ex-party without giving the proper opportunity of being heard. Applicant has applied for the registration u/s 12AA(1)(b)(ii) of the Income-tax Act, 1961 on 30.03.2020 in the first financial year of creation of trust 2019-20. The appellant has received the notice during lockdown period on 07.07.2020, hence could not file the reply. The order

for the rejection of the registration of the trust was passed ex-parte by the Commissioner of Income Tax (Bhopal) on 21.09.2020.

2. The appellant can file the reply of the notice and submit the requisite details and documents before the respondent on further opportunity given by this Hon'ble Authority for granting the registration w.e.f. F.Y. 2019-20."

3. At the time of hearing, none appeared on behalf of assessee. However, the Ld. CIT-DR was ready to argue the matter and the issue involved is registration u/s 12AA which is a priority-matter. Hence the appeal is taken up for disposal on the basis of material held on record and submission of Ld. CIT-DR.

4. The registry has informed that that the Appeal was required to be filed by 22.11.2020 but the same has been filed on 31.03.2021 after a delay of 130 days. It is observed that the filing of appeal is during Covid-19 pandemic period and the Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications** has granted suo motu extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws. Therefore, this is no delay in fact. We confronted the Ld. DR who agreed this and did not have objection. In view of this, the appeal is proceeded with for hearing.

5. The assessee is claiming to be a charitable trust. It filed application for registration in Form No. 10A on 31.03.2020 whereupon the Ld. CIT(E) issued notices dated 18.06.2020 and 22.06.2020 for making necessary inquiry fixing the hearings on 22.06.2020 and 29.06.2020 respectively. However, these notices remained un-complied with by the assessee. As no response was received, the Ld. CIT(E) proceeded to decide the application *ex-parte*. In the process, the Ld. CIT(E) refused registration with the reasoning that in absence of verification of the objects and activities on account of non-compliance of notices by assessee, the registration cannot be granted. Aggrieved by order of Ld. CIT(E), the assessee has filed this appeal before us.

6. Ld. DR supported the order passed by the Ld. CIT(E). Ld. DR argued that it is the duty of the assessee to file the details and documents so as to enable the Ld. CIT(E) to verify the objects and activities. According to Ld. DR since the assessee has not complied with the notices issued by Ld. CIT(E), the only option available to the Ld. CIT(E) was to refuse the registration, which he rightly did. Therefore, the assessee cannot be aggrieved by the action of Ld. CIT(E). With these submissions, the Ld. DR contested to uphold the action of Ld. CIT(E).

7. We have considered the submission of Ld. DR as also the material held on record including the Grounds raised in Form No. 36. On perusal of Ground No. 1, we observe that the aforesaid notices dated 18.06.2020 and 22.06.2020 fixing the hearings on 22.06.2020 and 29.06.2020 were issued during the Covid-19 Pandemic period and therefore the assessee could not file reply in response to the notices. We also observe from Ground No. 2 that the assessee is still ready to file the reply and submit the details /documents to enable the Ld. CIT(E) to take a proper view in the matter of grant of registration. We observe that Covid-19 was a serious situation worldwide including India and not only the departmental authorities had practical difficulties in completing proceedings but also the assessee had practical difficulties in submitting replies etc. Realizing these difficulties, even the Govt. of India issued **“THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020”** published in “The Gazette of India” on 29.09.2020 wherein the time-limits were extended for both sides i.e. time-limits were relaxed for the departmental authorities for completion of various proceedings on one hand and time-limits were also relaxed for the assessee to submit replies etc. on other hand. We observe that in the present case, the reason of Covid-19 pandemic for non-compliance of notices advanced by the assessee is sufficient enough. Further it would be just and fair to enable the assessee to submit his replies before the Ld. CIT(E) so that the Ld. CIT(E) can decide the registration on merit in accordance with law. We, therefore, remit this matter back to Ld. CIT(E). The Ld. CIT(E) shall give opportunity to the

assessee to submit details / documents required by him and decide the application on merit in accordance with law. Accordingly, we accept the Ground No. 1 and 2.

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

Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on 29.06.2022.

Sd/-

(MADHUMITA ROY)

Judicial Member

Sd/-

(B.M. BIYANI)

Accountant Member

Indore,

Dated : **29th June, 2022**

Patel/ Sr. P.S.

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	