

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member
Shri Yogesh Kumar US, Judicial Member**

**ITA No. 5034/Del/2018
Asstt. Year : 2017-18**

Dr. Ram Saran Garg (Indo German) Medical Centre, R-14/17, Raj Nagar, Ghaziabad	V s	CIT(E), Lucknow
(APPELLANT)		(RESPONDENT)
PAN No. AAATD4717H		

**Assessee by : Shri Gaurav Gupta, Adv
Revenue by : Shri Girish Kohli, JCIT**

Date of Hearing: 27.07.2022

Date of Pronouncement: 11.08.2022

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The adjournment sought by the Ld. CIT DR is rejected owing to the apparent facts of the case.

1. The present appeals is filed by the Assessee against the order of the Id. CIT(E), Lucknow dated 10.05.2018.

2. The Assessee has raised the following grounds of appeal:-

"A. *Because the CIT(E) erred in rejecting the exemption application filed in Form 56D on the ground that the application pertains to A.Y 2018-19 as such the same is pre mature which is misconceived. In form 56D the appellant has mentioned the Year 2017-18 and the term "Year" form 56D denotes to "Assessment Year" as such the rejection of exemption application on this ground is wholly illegal.*

- B. *Because the finding of CIT(E) in order dated 10.05.2018, that the appellant has filed part reply and not produce books of accounts is wholly perverse, the appellant has furnished point wise reply to notice 17.04.2018 issued by CIT(E). The Books of accounts were produced for verification before CIT(E) as apparent from our reply dated 10/05/2018 under point 8.*
- C. *Because the finding of CIT(E) that the Trust is running educational institution for profit is wholly misconceived and perverse. The appellant has mentioned in Form 56D as well as apparent from Trust Deed itself that the Appellant is running Hospital for philanthropic purposes and not for profit.*
- D. *Because CIT(E) has not raised query in notice dated 17.04.2018 pertaining to details of people receiving salary from trust as such rejection of exemption application on ground which who not part of notice is wholly illegal and liable to be set-aside.*
- E. *Because even otherwise had the CIT(E) had given opportunity to the appellant to produce details of people receiving salary from trust, the same would have been furnished.*
- G. *Because CIT(E) has formed opinion that Appellant has diverted income from Trust Property to personal gains of the persons mentioned section 13(3) of IT Act on conjectures and surmises without bring any material evidence on record."*

3. The society has filed application for registration u/s 10(23C) of the Income Tax Act, 1961 on 03.05.2017 with the Commissioner of Income Tax (Exemption), Lucknow who has ultimately rejected the registration sought by the Assessee vide order dated 10.05.2018.

4. On going through the order of the Ld. CIT(E), we find that the Id CIT(E) has rejected the registration on the grounds that sufficient material required for satisfaction regarding educational

purpose of the society has not been made available by the applicant, whereas, the assessee trust is involved in running hospital for philanthropic purpose.

5. Thus, *prima facie* we are of opinion that the order of the Id. CIT(E) is without proper application of the "facts" relevant to registration of the assessee society necessitating it to be remanded back, with directions to consider the issue of registration *de-novo* after affording an opportunity to the assessee.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 11/08/2022.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 11/08/2022

Ajay Keot, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR