

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

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

(Conducted through Virtual Court)

ITA No.350/Ind/2020

Sun Swan Education Society, Indore	Vs.	CIT(Exemption) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AALAS 3347 J		
Assessee by	Shri Manjeet Singh Sachdeva, AR	
Revenue by	None	
Date of Hearing	30.08.2022	
Date of Pronouncement	31.08.2022	

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 (Exemption), Bhopal [**“Ld. CIT(E)”**] dated 19.10.2020 u/s 10(23C)(vi) of the Income Tax Act,1961 [**“the Act”**], on following grounds:

“1. The learned Commissioner of Income Tax (Exemption) erred in rejecting the application made for approval under section 10(23C)(vi) of the Income Tax Act.

2. That The learned Commissioner of Income Tax (Exemption) erred in passing ex-parte order without considering the current situation due to Covid-19 Pandemic.

3. That the learned Commissioner of Income Tax (Exemption) erred not considering the direction given by the Hon'ble I.T.A.T. order No. 852/Ind/2018.

4. That the learned Commissioner of Income Tax (Exemption) erred not considering that all the objects mentioned are for educational purposes or related there to.

5. The rejection of application is unlawful and needs to be deleted.

6. The appellant craves leave to add, alter and/or deleted any of the grounds of appeal.”

2. At the time of hearing, none appeared on behalf of revenue nor any adjournment-application filed. However, the Ld. AR was ready to argue the matter. The issue involved is the grant of registration u/s 10(23C)(vi) of the act, which is a matter of priority. Hence we proceeded to dispose of the appeal after hearing the Ld. AR and material available on record.

3. The background facts of the case are such that the assessee is an educational society. On 02.08.2017, it filed an application in Form No. 56D to Ld. CIT(E) seeking registration u/s 10(23C)(vi) of the act, which was rejected by Ld. CIT(E) vide order dated 29.08.2018. The assessee carried matter in appeal before Indore Bench of ITAT in ITA No. 852/Ind/2018. The said ITA came to be decided on 18.03.2020 wherein the ITAT restored the matter to Ld. CIT(E) for a fresh adjudication.

4. Following the aforesaid direction of ITAT, the Ld. CIT(E) took up the matter for adjudication. In the process, the Ld. CIT(E) issued notice dated 08.09.2020 fixing the hearing on 17.09.2020, in response to which the assessee sought adjournment on the reasoning that due to Covid-19 pandemic, the staff was not available. Thereafter, the Ld. CIT(E) issued notice dated 18.09.2020 fixing the hearing on 25.09.2020, followed by another notice dated 01.10.2020 fixing the hearing on 12.10.2020, but these notices remained un-complied with by the assessee. Finding non-compliances, the Ld. CIT(E) passed order dated 19.10.2020 whereby the application of assessee was again rejected. This way, the assessee is not able to get registration. Being aggrieved by this order, the assessee has again come in appeal before us on the same matter.

5. Ld. AR submitted that during the relevant period when the Ld. CIT(E) fixed hearings, there was Covid-19 pandemic in the country which had resulted in extreme adversities. Ld. AR submitted that the assessee was ready to make compliances but for the reason of Covid-19 pandemic, the compliances could not be made. Ld. AR submitted that the situation was beyond control of everyone including the assessee and therefore the Ld. CIT(E) ought to have taken a judicious view and should not have rejected the application of assessee. Ld. AR submitted that there existed a very reasonable cause for non-compliances. With these submissions, Ld. AR made a humble prayer to remand this case once again to the file of Ld. CIT(E) to enable a judicious adjudication on merits.

6. Ld. DR dutifully supported the order of Ld. CIT(E) but, however, could not controvert the submissions made by Ld. AR.

7. We have considered the submissions of both sides and perused the record. On a careful consideration, we agree that during the relevant period, there was Covid-19 pandemic in the country. We observe that the response submitted by assessee to the 1st notice dated 08.09.2020 itself clearly spells out assessee's inability due to Covid-19 pandemic. We observe that Covid-19 was a serious situation worldwide including India which created extreme adversities for the departmental authorities as well assessees. Taking note of the same, 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 assessees 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 is very genuine and valid. We also observe that 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), who shall give opportunity to the assessee to

submit details / documents as required by him and decide the application on merit in accordance with law.

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 31.08.2022.

Sd/-

Sd/-

(SIDDHARTHA NAUTIYAL)

(B.M. BIYANI)

Judicial Member

Accountant Member

Indore,

Dated : **31.08. 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	