

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “H” BENCH: NEW DELHI**

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &  
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA Nos.338 & 340/Del/2021  
[Assessment Years : 2020-21 & NIL]**

Shree Shyama Shyam Foundation, C/o-S.B.Garg & Co., CAs, 20/17, Shakti Nagar, New Delhi-110007. <b>PAN-AATTS6522P</b>	vs	CIT(E), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Achint Garg, Adv. & Shri S.B.Garg, CA	
<b>Respondent by</b>	Shri M.Baranwal, CIT DR	
<b>Date of Hearing</b>	09.11.2022	
<b>Date of Pronouncement</b>	09.11.2022	

**ORDER**

**PER KUL BHARAT, JM :**

Both appeals filed by the assessee are directed against the order of Ld. CIT(E), Delhi dated 04.02.2021 for the Assessment Year (“AY”) 2020-21 and NIL respectively. Since identical grounds have been raised, both appeals were taken up together for hearing and are being disposed off by way of consolidated order for the sake of brevity.

2. The assessee has raised following grounds in both appeals:-

**ITA No.338 /Del/2021 [Assessment Year : 2020-21]**

1. *“The Id. Commissioner of Income Tax (Exemptions), New Delhi (hereafter the CIT) allowed the registration under section 12A r.w.s. 12AA of the Income Tax Act, 1961 (the Act) from assessment year 2021-22 but the Id. CIT failed to appreciate that the Assessee is*

*entitled for registration under section 12A r.w.s. 12AA of the Act from assessment year 2020-21 and thereby erred in not allowing the registration under section 12A r.w.s. 12AA of the Act from assessment year 2020-21.*

2. *The Id. CIT failed to appreciate that where the limitation to file an application falls during the period from 20-03-2020 to 29-06- 2020; the same was extended to 30-06-2020 by virtue of The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.*
3. *The impugned order passed by the Id. CIT is against the facts of the case as well as law.*
4. *The observations made in the impugned order by the Id. CIT are against the facts of the case as well as law.”*

**ITA No. 340/Del/2021 [Assessment Year : NIL]**

1. *“The Id. Commissioner of Income Tax (Exemptions), New Delhi (hereafter the CIT) allowed the application for grant of approval under section 80G of the Income Tax Act, 1961 (the Act) from assessment year 2021-22 but the Id. CIT failed to appreciate that the Assessee is entitled for approval under section 80G of the Act from assessment year 2020-21 and thereby erred in not allowing the approval under section 80G of the Act from assessment year 2020-21.*
2. *The Id. CIT failed to appreciate that where the limitation to file an application falls during the period from 20-03-2020 to 29-06- 2020; the same was extended to 30-06-2020 by virtue of The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.*
3. *The impugned order passed by the Id. CIT is against the facts of the case as well as law.*
4. *The observations made in the impugned order by the Id. CIT are against the facts of the case as well as law.”*

3. A short grievance of the assessee in these two appeals are that by way of impugned order, Ld.CIT(E) has granted registration u/s 12AA of the Income Tax Act, 1961 (“the Act”) w.e.f. AY 2021-22.

4. Ld. Counsel for the assessee has brought to our notice the order of Hon’ble Supreme Court in Suo Moto Writ Petition (C) No.3 of 2020 and Miscellaneous Application 665 of 2021 and also in “The Gazette of India” vide No.21 dated 31.03.2020. Ld. Counsel for the assessee contended that registration ought to have been considered w.e.f. AY 2020-21 instead of AY 2021-22. He further considered that application u/s 154 of the Act is also not disposed off by the Ld.CIT(E).

5. Ld.CIT DR has no objection if the grounds of appeal raised by the assessee are restored to the file of Ld.CIT(E) for his consideration and passing a speaking order in respect of the grievance of the assessee.

6. We have heard Ld. Authorized Representatives of the assessee and the Revenue and perused the material available on record. After hearing the contentions of both parties, we therefore, set aside the impugned order and restored the issue to the file of Ld.CIT(E) for taking a decision regarding applicability of the impugned order w.e.f. AY 2020-21 in accordance with law. Needless to say that Ld.CIT(E) would provide adequate opportunity of hearing to the assessee. Thus, grounds raised by the assessee in both these appeals are allowed for statistical purposes.

7. In the result, both appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 09<sup>th</sup> November, 2022.

**Sd/-**

**Sd/-**

**(N.K.BILLAIYA)**  
**ACCOUNTANT MEMBER**

**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI