

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

ITA No. 1852/Del/2020

Human Welfare Foundation,
H.No. 175, Gali No. 5,
Vipin Garden Extension, Uttam
Nagar, New Delhi.

PAN: AACTH0791H
(Appellant)

Versus C.I.T. (Exemption),
New Delhi

(Respondent)

Appellant by : None
Respondent by : Ms. Sapna Bhatia, Ld. CIT-DR

Date of hearing : 02.02.2023
Date of order : 08.02.2023

ORDER

PER N.K. CHOUDHRY, J.M.

This appeal has been preferred by the Appellant against the order dated 18.09.2020, impugned herein, passed by the learned Commissioner of Income-tax (Exemption)-New Delhi (in short "Ld. Commissioner"), u/s. 12AA(1)(b) r.w.s. 12A & 80G(5)(vi) of the Income-tax Act, 1961 (in short 'the Act').

2. In the instant case, the applicant/appellant herein by filing applications electronically on dated 22.11.2019 in Form No. 10A sought registration u/s. 12AA and exemption u/s. 80G of the Act, in

response to which vide letter dated 07.01.2020 issued by the Id. Commissioner, the appellant was requested to submit certain documents in support of its claim qua registration u/s. 12AA/80G of the Act by fixing the case for hearing on 22.01.2020, on which date part reply was filed by the Assessee. Thereafter, on dated 17.06.2020, the appellant was afforded another opportunity to furnish the complete details on dated 22.06.2020, which remained un-complied. However, on 14.09.2020, the reply of the appellant was received in the office of the Id. Commissioner.

3. On perusing the details filed by the appellant, it was observed by the Id. Commissioner that as per the Income & Expenditure Account for the Financial Year 2019-20, the Applicant has shown to have done activities relating to health check-up, books and stationery distribution and food distribution, but the appellant was not able to furnish any bills of expenses relating to food distribution to substantiate the claim of food distribution done by it. Further, the Applicant has furnished only the internal vouchers and some handmade bills relating to expenses done on account of health check up. The Id. Commissioner further held that on perusal of the details filed by the Applicant, it is seen that there were credit entries amounting to Rs.16,200/-, but there were no debit entries. Hence, the genuineness of the activities could not be substantiated through bank statement and therefore, the genuineness of the activities of the Applicant trust could not be established and the condition for granting registration u/s. 12AA is not satisfied and accordingly, the application is hereby rejected. The Id. Commissioner also rejected the application for exemption u/s. 80G of the Act on the ground that since the Applicant is not granted

registration u/s. 12AA(a) of the Act, its application in Form No. 10G seeking exemption u/s. 80G is also hereby rejected.

4. None appeared on behalf of the appellant and the notice sent to the appellant at the address mentioned in form No. 36 for 02.02.2023 returned back by the postal department. As we do not have any alternative address for sending the notice to the appellant, hence, we are inclined to decide this appeal as ex-parte.

5. We observe, as it appears from the order impugned that the Appellant by filling applications on 22.11.2019 sought registration under section 12AA(1)(b) & 80G(5)(vi) of which were taken into consideration, vide issuing letter dated 07.01.2020 whereby the case was fixed for 22.01.2020 for filing of certain documents in support of its applications/claim. In response, the appellant filed part reply in ITBA Portal. Thereafter vide notice dated 17.06.2020, the Id. Commissioner afforded another opportunity to the Appellant to furnish the complete details by fixing the case for hearing on 22.06.2020, which remained un-complied. However, the Assessee filed its reply which was received by the office of the Id. Commissioner on 14.09.2020. Thereafter, no opportunity of being heard was ever provided to the appellant herein.

5.1 It is the mandate of law u/s. 12 of the Act that if the Id. Commissioner after making is not satisfied about the objects of the trust or institution and the genuineness of its activities, then he can pass an order in writing refusing to register the Trust or Institution u/s

12AA of the Act, but he has to provide a reasonable opportunity of being heard before passing such refusal order.

5.2 In the instant case, an opportunity to furnish complete details was given on 22.06.2020 when the entire Nation was on hold due to complete lockdown on account of COVID-19 and even otherwise thereafter no reasonable opportunity of being heard was provided to the appellant before rejecting the applications specifically the application u/s. 12AA of the Act and therefore, the appellant remained un-represented and consequently failed to defend/prosecute its case for the grant of registration sought for. Even otherwise, the Id. Commissioner has not examined the objects of the appellant.

5.3 In the cumulative effects, we are inclined to remand the instant case to the file of the Id. Commissioner for decision afresh, suffice to say, by affording reasonable opportunity of being heard to the appellant.

We also direct the appellant to produce the relevant documents in support of its claim and to appear as and when would be needed for proper adjudication of the instant case before the Id. Commissioner and in case of default, the appellant shall not be entitled for any leniency. We also clarify that primary onus to establish its case would be on the appellant.

6. In the result, the appeal filed by the Appellant stands allowed for statistical purposes.

Order pronounced in the open court on 08/02/2023.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

*aks/-