

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : C : NEW DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA No.7918/Del/2018  
Assessment Year: NA

K.P. Education & Medical Institution, Vs. CIT (Exemption),  
8750 (3/4), DB Gupta Road, New Delhi.  
Paharganj,  
New Delhi – 110 055.

PAN: AADTK0056D

(Appellant)

(Respondent)

Assessee by	:	Shri Sushil Chadha, CA
Revenue by	:	Shri Mohd. Gaysuddin Ansari, CIT,DR
Date of Hearing	:	16.01.2023
Date of Pronouncement	:	14.02.2023

ORDER

PER C.M. GARG, JM:

This appeal filed by the assessee is directed against the order dated 29.11.2018 of the CIT (Exemption), New Delhi, rejecting the application for registration u/s 12A & 80G of the Income Tax Act, 1961 (hereinafter called, 'the Act').

2. The sole ground raised by the assessee is that the Id. CIT(Exemption) has erred in rejecting the application for registration u/s 12A & 80G of the Act which is arbitrary, unjustified and against the provisions of law as well as against the concept of natural justice and equity.

3. The Id. AR submitted that the assessee Trust has amended its objectives in the Trust Deed as per the directions of the Id.CIT(E), Delhi, which could have been considered for while deciding on the application of the assessee for grant of registration u/s 12A & 80G(5)(vi) of the Act. The Id. AR also pointed out that in para 3.3, the AO picked up the issue of payment of school fees by the Trust for three students and raised a question whether these students belonged to poor family or not and also stated that no identity proof of income of parents of the said three students were furnished by the applicant. But, the assessee trust was not show-caused by the Id.CIT(E) in this regard and the Id.CIT(E) directly jumped into a conclusion that the objectives of the applicant trust is commercial in nature and the genuineness of charitable activities could not be established. Therefore, the Id. AR vehemently pointed out that the assessee was not granted due opportunity of being heard by the Id. CIT(E) and the Id.CIT(E) should be directed to grant registration u/s 12A & 80G of the Act.

4. Replying to the above, the Id.CIT-DR supported the order of the Id.CIT(E) and submitted that the objectives of the trust were not as per the requirement of section 12A of the Act and to the satisfaction of registration granting authority and the assessee could not establish that the three students were belonging to the poor family and their identity proofs and income proofs of their parents were also not furnished. Therefore, the Id. CIT(E) was right in dismissing the application of the assessee for granting registration u/s 12A and 80G of the Act.

5. Placing rejoinder to the above, the Id. AR submitted that the assessee trust has amended its trust deed as per the requirement of section 12A of the Act and

regarding three students, the Id.CIT(E) did not issue any show cause notice or by way of any note sheet entry never directed the assessee to produce the required details regarding the said three students. Therefore, the matter may kindly be restored to the file of the CIT(E) for fresh adjudication of the application of the assessee.

6. On conclusion of the hearing, as agreed by the Id. CIT-DR, the matter is restored to the file of the Id.CIT(E) with a direction to consider the amended trust deed of the applicant trust and to allow opportunity of being heard regarding other issues. We, therefore, restore the matter to the file of the Id.CIT(E) for considering the applications of the assessee for grant of approval u/s 12A and 80G of the Act afresh preferably within three months from the date of receipt of this order.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose only.

Order pronounced in the open court on 14<sup>th</sup> February, 2023.

Sd/-

(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

Sd/-

(C.M. GARG)  
JUDICIAL MEMBER

Dated: 14<sup>th</sup> February, 2023.

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi