

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.216 & 217/Asr/2022: A.Y.: N/A**

Spiritual Welfare Society, Dadwan, Dhariwal Gurdaspur Punjab. [PAN:AAIAS4518A]  <b>(Appellant)</b>	<b>Vs.</b>	CIT (Exemptions) Chandigarh.  <b>(Respondent)</b>
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**I.T.A. No.218 & 219/Asr/2022: A.Y.: N/A**

DeenDayal Educational And Charitable Society, Catholic Church Jalalena road Kotkapura, Faridkot, Punjab. [PAN:AADTD7394P]  <b>(Appellant)</b>	<b>Vs.</b>	CIT (Exemptions) Chandigarh.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>Sh. Gunjeet Singh Syal, Adv.</b>
<b>Respondent by</b>	<b>Sh.S.R. Kaushik CIT. DR</b>

<b>Date of Hearing</b>	<b>27.02.2023</b>
<b>Date of Pronouncement</b>	<b>15.03.2023</b>

**ORDER**

**Per: Bench:**

These appeals by above two assesseees are directed against different orders of the Id. Commissioner of Income Tax (Exemptions), Chandigarh,[in brevity the ‘CIT (E)’] order passed u/s 12AB(1)(b) of the Income Tax Act 1961, [in brevity

the Act]. The assessee submitted application for registration u/s 12A(1)(ac)(iii) of the Act and application u/s 12AB (1) for registration u/s 80G of the Act.

**Ground in ITA No.216/Asr/2022**

- “1. That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration u/s 12AB(l)(b) of the Act, 1961 of the appellant Society by holding that there was non-compliance on the part of the assessee.*
- 2. That notice dated 18.08.2022, 30.08.2022 & 10.09.2022 were never issued nor served on the email of the assessee.*
- 3. That on 07.09.2022, the assessee had sought an adjournment for 22.09.2022 as the assessee was gathering material from multiple sources and this request was not acceded to.*
- 4. That the assessee was trying to upload the complete reply on 21.09.2022, which the system was not accepting as the “submit button was not highlighted. Since it was a system error, on 23.09.2022 assessee filed complete reply via email which was not considered.*
- 5. That till 23.09.2022 neither the impugned order dated 22.09.2022 was uploaded to the Income Tax profile nor served via email and therefore, there is gross violation of principles of natural justice.*
- 6. That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration u/s 12AB(l)(b) of the Act, 1961 of the appellant in absence of any adverse finding regarding the aims, objects and genuineness of activities of the Society. Hence, the appellant Society should be granted registration u/s 12AB(l)(b).*

7. *The appellant Society craves, leaves to alter and add to substitute any ground of appeal before or at the time of hearing.”*

**Ground: In ITA No.217/Asr/2022**

“1. *That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration under Clause (ii) of second proviso to sub-section (5) of section 80G of the Act, 1961 of the appellant Society by holding that there was non-compliance on the part of the assessee.*

2. *That no notice was ever issued nor served on the email of the assessee.*

3. *That on 07.09.2022 the assessee had sought an adjournment for 23.09.2022 as the assessee was gathering material from multiple sources and this request was not acceded to.*

4. *That the assessee was trying to upload the complete reply on 21.09.2022, which the system was not accepting as the “submit” button was not highlighted. Since it was a system error, on 23.09.2022 assessee filed complete reply via email which was not considered.*

5. *That till 23.09.2022 neither the impugned order dated 28.09.2022 was uploaded to the Income Tax profile nor served via email and therefore, there is gross violation of principles of natural justice.*

6. *That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration under Clause (ii) of second proviso to sub-section (5) of section 80G of the Act 1961 of the appellant in absence of any adverse finding regarding the aims, objects and genuineness of activities of the Society Hence,*

*the appellant Society should be granted registration under Clause (ii) of second proviso to sub-section (5) of section 80G.*

*7. The appellant Society craves, leaves to alter and add to substitute any ground of appeal before or at the time of hearing.”*

2. At the outset, both orders are filed by the appellant against the order of Id. CIT(E), are same and identical facts which are taking together for adjudication.

**ITA No. 216/Asr/2022** related to appeal against cancellation of registration u/s 12A(1)(ac)(iii) and **ITA No.217/Asr/2022** related to appeal against cancellation of application u/s 12AB (1) are taking as lead case.

3. Brief fact of the case is that the assessee is a welfare society and filed the application for registration u/s 12A(1)(ac) (iii) of the Act and for registration u/s 80G the another application was filed u/s 12AB of the Act before the Id. CIT(E). Hearing was fixed but none was present. Finally, the Id. CIT(E) decided that the assessee was not interested to represent its case. So, both the applications were rejected *ex parte*. Being aggrieved assessee filed an appeal before us.

4. The Id. Counsel for the assessee, Mr. Gunjeet Singh Syal, Advocate vehemently argued and filed written submissions which are placed before the Bench. The Id. Counsel claimed that the noticed dated 18.8.2022 and 30.08.2022 were not served to the assessee. Further the assessee got information and filed short adjournment on dated 07.09.2022. But due to technical glitches, the assessee finally had not able to take the opportunity to submit the documents on the date of

hearing, fixed on dated 22.09.2022. Finally, the order was passed *ex parte* without giving the reasonable opportunity hearing to assessee. The assessee submitted the relevant documents in support of his claim which are annexed from the **page no. 1 to 5 of APB.**

5. The Id. Counsel for the assessee further submitted that the assessee was unable to submit the submission due to the technical glitches so on 22.09.2022. Finally, the submission was filed to CIT(E) on 23/09/2022 through E-mail i.e. next day of the hearing date.

6. The Id. Sr. DR vehemently argued and placed that the Id. CIT(E) had passed the order on 22.09.2022 so the submission on 23.09.2022 is not served any purpose. The Id. CIT DR fully relied on the order of the revenue.

7. We heard the rival submission and relied on the documents available in the record. The assessee specifically mentioned that assessee has suffered technical glitches for submission of the documents before the revenue. The assessee was not able to perform his duty for submission of the relevant evidence before the Id. CIT(E). We find that there is a reasonable opportunity was denied for the assessee to submit its claim. Thus, in view of the above, we are of the considered opinion that application filed by the assessee trust under section 12A(1)(ac)(iii) & 12AB(1) were not properly considered for grant of registration under section 12AB & 80G(5)(ii) of the Act. Accordingly, we direct the Id. CIT(E) to *de novo*

consider the application of the assessee trust applied under section 12A(1)(ac)(iii) & 12AB(1) of the Act and grant the registration as per law. Needless to say, the assessee should get a reasonable opportunity of hearing in set aside proceeding before the Id. CIT(E).

8. The facts of the present cases are similar & *mutatis mutandis* applicable in ITA 218/Asr/2022 & 219/Asr/2022. We order accordingly.

9. In the result, the appeals of the assessee bearing **ITA No. 216/Asr/2022 to 219/Asr/2022** are allowed for statistical purposes.

**Order pronounced in the open court on 15.03.2023**

Sd/-

**(Dr. M. L. Meena)**  
**Accountant Member**

Sd/-

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order