

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

**ITA No.286/Del/2020
Assessment Year:**

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| Kumar Digital Education Foundation Khasra No.1012 Chittrakut Colony, Ambedkar Park, Near Dayanand Public School, Arthala, Mohan Nagar, Ghaziabad-201007 | Vs. | Commissioner of Income Tax, (E), 5th Floor, South Block, Lucknow U.P. |
| (Appellant) | | (Respondent) |

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| Appellant by | None |
| Respondent by | Modh. Gayasuddin Ansari, CIT (DR) |

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| Date of hearing | 15.03.2023 |
| Date of pronouncement | 15.03.2023 |

ORDER

PER O.P. KANT, AM:

This appeal by the assessee is directed against order dated 28/11/2019 passed by the Learned Commissioner of income-tax (Exemption), Lucknow [in short the Ld. CIT(E)], raising following grounds:

"1. That on the facts and in the circumstances of the case and in law, Ld. CIT(E) erred in rejecting the application of the appellant Trust on the grounds that the appellant Trust has not compliance of laws towards achieving its objects.

The appellant has submitted the documentary evidence to establish that the Trust is doing the charitable activities as it providing the free computer education to the student who are living the slum areas along with list of the students. The Ld CIT(E) did agree with charitable activities carried by the appellant Trust however, even then he has rejected the application in a mechanical manner.

The impugned order are wrong, opposed to the facts and material on record that the observations made therein are based on conjuncture, surmises, without due considerations of the facts of the case and having regard to relevant considerations for grant of registration under section 12AA of the Income Tax Act, 1961 and therefore, the impugned order is unsustainable both on facts and in law.

It is submitted that there is no pr requisite requirement to register the Trust with the other statutory body before applying for registration u/s 12AA of the Inc; Tax Act, 1961."

2. Briefly stated facts of the case are that the application of the assessee seeking registration u/s.12AA of the Income Tax Act, 1961 (in short that) was rejected by the Learned CIT(E) due to failure on the part of the assessee in demonstrating the efforts made for achieving its object of 'education'.

3. Aggrieved with the finding of the Ld. CIT(E), the assessee is in appeal before us by way of raising the grounds as reproduced above.

4. At the outset, we may like to mention that the assessee was duly notified for the date of the hearing by registered post however, notice returned back with the comment of the postal authority as "not known". Before us neither any one attended on behalf of the assessee nor application for adjournment of hearing was filed. It is seen from the record that on last many occasions

also none attended on behalf of the assessee. In view of the facts and circumstances, we were of the opinion that the assessee was not interested in prosecuting this appeal, therefore, same was heard *ex parte* qua the assessee after hearing argument of the Learned Departmental Representative.

5. On perusal of the impugned order, we find that the assessee sought registration u/s.12AA of the Act for registering as charitable institution. The assessee claimed that it is engaged in providing of 'education'. The Learned CIT (E) asked for documents and evidences in support of activities carried out for achieving its object, however nothing was provided by the assessee except list of the students. The relevant finding of the Learned CIT(E) is reproduced as under :-

"6.1. The written submission of the applicant has been considered. With the afore mentioned amendment in section 12AA of the income Tax Act, the applicant is required to comply with any laws, material for achieving its objects. However, in case of the applicant, there is no compliance of Laws towards achieving the above mentioned objects. The applicant has not developed any infrastructure, for achieving the said objects. Needless to say the applicant has not also obtained any permissions/approvals/affiliations, for implementing its objects, such as Right To Education Act, 2009, The Uttar Pradesh Basic Shiksha Adhiniyam, 1972/The Intermediate Education Act, 1921. The Uttar Pradesh Pravidhik Shiksha Adhiniyam, 1962, National Building Code 2005, Fire And Life Safety Certificate, Save Drinking Water and Sanitary Conditions Certificate etc.

6.2. Thus, looking to the facts and circumstances of the case, it is clear that the application has been made without compliance of other laws, which are material for achieving the objects of the applicant. It may also be mentioned here that approval/registration u/s 12AA of the Income Tax Act, is not a pre-requisite for obtaining other necessary permissions/approvals/affiliations, or

compliance to other laws necessary for achieving the objects of the applicant. In other words, the applicant is not prevented from obtaining/complying with other laws, as necessary, by lack of registration u/s 12AA. Hence, the applicant is free to make a fresh application for registration after obtaining necessary permissions/approvals/affiliations.”

7. We find that the Learned CIT(E) has rejected the application of the assessee with liberty to file fresh application after obtaining necessary evidences including permissions/ approvals for demonstrating the action for achieving object of providing education. In our opinion, the action of the Learned CIT(E) is justified and we do not want any interference in the same. The finding of the CIT(E) is accordingly upheld. The grounds of the appeal of the assessee are accordingly dismissed.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 15.03.2023.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

**Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER**

Dated:15.03.2023

NEHA

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi