

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER AND
SH. NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

ITA No. 399/Del/2021
(Assessment Year : 2020-21)

M/s. Green Educational Charitable Trust, Hindan River Bridge, Main Road, Budhana PAN No. AADTG 0004 H (APPELLANT)	Vs.	CIT(Exemption) 5 th Floor, South Block, T. C.46V, UP State Construction & Infrastructure Development Corporation, Vibhuti Khand, Gomti Nagar, Lucknow (RESPONDENT)
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Assessee by	--None--
Revenue by	Ms. Sapna Bhatia, CIT-D.R.

Date of hearing:	01.02.2023
Date of Pronouncement:	31.03.2023

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the assessee is directed against the order dated 10.02.2021 of the Commissioner of Income Tax (Exemption), Lucknow relating to Assessment Year 2020-21.

2. Brief facts of the case as culled out from the material on record are as under :-

3. Assessee is a trust who filed its application for registration of the trust under section 12A(a) of the Act in the office of Commissioner of Income tax (Exemptions), Lucknow. The application for the approval u/s 12AA was rejected by CIT (E), Lucknow vide order dated 10.02.2021 mainly for the reason that assessee did not file the required details called for by him.

4. Aggrieved by the order of CIT(E), Assessee is now in appeal before us and has raised the following grounds:-

1. *“That, the impugned order passed by the CIT Exemption, Lucknow U/s 12AA of the Income Tax Act, 1961 is arbitrary, erroneous, unreasonable and opposed to the facts and circumstances of the law.*
2. *That, the CIT Exemption has erred in passing the impugned order and rejecting the application U/s 12A on the ground, that, the assessee trust has not carried out any activities towards its object, which is highly arbitrary and unjustified and against the principle of natural justice.*
3. *That, the CIT Exemption has failed to appreciate, that, the assessee trust has performed the construction of the building for the School and also moved an application, before the District Basic Education Officer, for the permission of running school.*
4. *That, the CIT Exemption has rejecting the application U/s 12AA without appreciating, the term activities, in section 12AA includes, the purposed activities and the registration cannot be refused on the ground, that, no activities are carried out*
5. *That, the CIT Exemption has erred in not providing the adequate and reasonable opportunity of hearing to the assessee trust to place the details required by CIT Exemption to substantiate its claim during the proceedings.*

6. *That, the explanation given and evidence produced, material placed and available on record have not been properly considered and judicially interpreted and the same do not justify the additions/ allowances made.”*

5. On the date of hearing none appeared on behalf of the assessee but however the Counsel for the assessee has moved an adjournment application seeking adjournment. The perusal of grounds of appeal reveals that one of the ground raised by the assessee is about inadequate opportunity of hearing granted by CIT(E). In view of the aforesaid ground, we proceed to dispose of the appeals *ex parte qua* the assessee, after considering the submissions of Learned DR and the material on record.

6. Before us, Ld DR supported the order of lower authorities.

7. From the documents available on record, we find that the sole grievance of the assessee is with respect to the refusal of registration u/s. 12AA of the Act. It is further the grievance of the assessee that sufficient opportunity of hearing was not granted to the assessee. It is therefore prayed that the Assessee be granted one more opportunity to present its case before CIT(E).

8. We have heard the Learned DR and perused the material on record. In the present case we find that the application of registration u/s 12AA of the Act was rejected by CIT(E) mainly for the reason that the Assessee did not file the required details. Considering the prayer that sufficient opportunity of hearing was not granted to the assessee. We are of the view that in the interest

of justice one more opportunity be granted to Assessee to file the required details. Accordingly, we hereby set aside the impugned order of CIT(E) and restore the application of the assessee to the file of CIT(E) for fresh decision. The assessee is also directed to promptly furnish the documents before the CIT(E) for deciding the issue afresh. **Thus the ground of the appeal of the assessee are allowed as above.**

9. In the result, the appeal of Assessee is allowed.

Order pronounced in the open court on 31.03.2023

Sd/-

**(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 31.03.2023

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI