

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

**BEFORE ANIL CHATURVEDI, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA Nos.2699 & 2700/Del/2022

[Assessment Years : NIL]

Kayantar Foundation, 179A, Gali No.18, Pratap Nagar, Mayur Vihar, Phase-1, New Delhi-110091. PAN-AAICK0791R	vs	CIT (Exemption), Civic Center, Minto Road, New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri Shyam S. Singhvi, CA	
Respondent by	Shri Waseem Arshad, CIT DR	
Date of Hearing	27.06.2023	
Date of Pronouncement	28.06.2023	

ORDER

PER KUL BHARAT, JUDICIAL MEMBER :

Both appeals filed by the assessee for the assessment years NIL are directed against the separate orders of Ld.CIT(Exemption), Delhi passed on 29.09.2022 for Assessment Years ("AY") NIL. Since identical grounds have been raised, both appeals were taken up together for hearing and are being disposed off by way of this consolidated order for the sake of brevity.

ITA No.2700/Del/2022 [Assessment Year : NIL]

2. First, we take up assessee's appeal in **ITA No. 2700/Del/2022** pertaining to Assessment Year NIL. The assessee has raised following grounds of appeal:-

1. *"The Ld.CIT-Exemption has grossly erred on facts and in law by rejecting Exemption u/s 12A(1)(ac)(iii) of the Act without considering requisite submission on records.*
2. *The Ld.CIT-Exemption has grossly erred on and in law by rejecting the Exemption u/s 12A(1)(ac)(iii) of the Act without giving effective opportunity before rejection.*

3. *The appellant reserves rights to add/alter/amend/withdrawn any/all grounds of the appeal.”*

3. Facts giving rise to the present appeal are that in this case, the assessee had filed an application on 31.03.2022 in Form No.10AB for seeking registration u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961 (“the Act”). The said application was dismissed on the basis that the assessee failed to file complete response of the questionnaire dated 11.08.2022 and therefore, the conditions stipulated, could not be verified.

4. Aggrieved against this, the assessee is in appeal before this Tribunal.

5. At the outset, Ld. Counsel for the assessee submitted that he has filed a Paper Book in support of its claim. He further submitted that Ld.CIT(E) did not grant adequate opportunity to the assessee. The assessee could have explained and submitted the information as and when required by Ld.CIT(E). He further submitted that a bare perusal of the material filed in the form of Paper Book which demonstrates that the assessee is eligible for registration.

6. On the other hand, Ld. CIT DR opposed these submissions and supported the orders of the authorities below. He submitted that the assessee was given sufficient opportunity by the Assessing Authority.

7. We have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. Ld.CIT(Exemption) rejected the application by observing as under:-

4. *“As the assessee has failed/ignored to file complete response of the questionnaire dated 11.08.2022, the above conditions could not be*

verified. Accordingly, the application filed on 31.03.2022 in Form 10AB for grant of registration u/s 12A(1)(ac)(iii) of the Income tax Act, 1961 is rejected.

5. *The applicant is, however, at liberty to reapply for registration after completing the requisite details in accordance of provisions of law prevailing at the time of filing of application.”*

8. Considering the totality of the facts and material available on record, we are of the considered view that the assessee should have been provided sufficient opportunity for effectively representing its case to sub-serve the principles of natural justice. We therefore, set aside the impugned order and restore the application of the assessee to the file of Ld.CIT(Exemption), Delhi for deciding it afresh after considering the submissions of the assessee and material placed on records in support of such submissions. Thus, grounds raised by the assessee are allowed for statistical purposes.

9. In the result, appeal of the assessee is allowed for statistical purposes.

ITA No.2699/Del/2022 [Assessment Year : NIL]

10. Now, we take up assessee's appeal in **ITA No. 2699/Del/2022** pertaining to Assessment Year NIL. The assessee has raised following grounds of appeal:-

1. *“The Ld.CIT-Exemption has grossly erred on facts and in law by rejecting Exemption u/s 80G of the Act without considering requisite submission on records.*
2. *The Ld.CIT-Exemption has grossly erred on and in law by rejecting the Exemption u/s 80G of the Act without giving effective opportunity before rejection.*

3. *The appellant reserves rights to add/alter/amend/withdrawn any/all grounds of the appeal.”*

11. Facts leading to the present appeal are that the assessee filed an application on 31.03.2022 in Form No.10AB for approval u/s 80G(5)(iii) of the Act. Ld.CIT(E) issued questionnaire and requested to furnish certain documents. However, as per Ld.CIT(E), the assessee failed to do so therefore, he rejected the application of the assessee.

12. Aggrieved against this, the assessee is in appeal before this Tribunal.

13. At the outset, Ld. Counsel for the assessee submitted that he has filed a Paper Book in support of its claim. He further submitted that Ld.CIT(E) did not grant adequate opportunity to the assessee. The assessee could have explained and submitted the information as and when required by Ld.CIT(E). He further submitted that a bare perusal of the material filed in the form of Paper Book which demonstrates that the assessee is eligible for registration.

14. On the other hand, Ld. CIT DR opposed these submissions and supported the orders of the authorities below. He submitted that the assessee was given sufficient opportunity by the Assessing Authority.

15. We have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. Ld.CIT(Exemption) rejected the application by observing as under:-

4. *“As the assessee failed/ignored to file response of the questionnaire dated 11.08.2022, the above conditions could not be verified. Accordingly, the application filed on 31.03.2022 in Form 10AB for approval u/s 80G(5)(iii) of the Income tax Act, 1961 is rejected.*

5. *The applicant is, however, at liberty to reapply for registration after completing the requisite details in accordance of provisions of law prevailing at the time of filing of application.”*

16. Considering the totality of the facts and material available on record, we are of the considered view that the assessee ought to have been provided sufficient opportunity for effectively representing its case to sub-serve the principles of natural justice. We therefore, set aside the impugned order and restore the application of the assessee to the file of Ld.CIT(Exemption), Delhi for deciding it afresh after considering the submissions of the assessee and material placed on records in support of such submissions. Thus, grounds raised by the assessee are allowed for statistical purposes.

17. In the result, appeal of the assessee is allowed for statistical purposes.

18. In the final result, both appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 28th June, 2023.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Amit Kumar

Copy forwarded to:

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

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI