

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं./ITA No. 2/RPR/2021

(निर्धारण वर्ष / Assessment Year: 2020-21)

Chhattisgarh Diocese Board of Education CNI, Gate No. 1, Opp. Rajbhawan, Civil Lines, Raipur	Vs	Commissioner of Income Tax (Exemption), Bhopal (M.P.)
PAN No. : AACAC1876F		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Sh. Sunil Kumar Agrawal, CA
राजस्व की ओर से /Revenue by	:	Dr. Simran Bhullar, CIT(DR)
सुनवाई की तारीख / Date of Hearing	:	18.07.2023
घोषणा की तारीख/ Date of Pronouncement	:	18.07.2023

आदेश / O R D E R

Per Arun Khodpia, AM :

The present appeal by the assessee is directed against the order of Commissioner of Income Tax (Exemption), Bhopal, dated 10th February, 2021, pertaining to assessment year 2020-21. The following grounds are raised by the assessee:

- 1. The order of the Commissioner of Income Tax (Exemption) is devoid of natural justice as no proper opportunity was allowed to the institution for making requisite compliances. The order of rejection is, therefore, illegal and void ab initio should be quashed.*
- 2. Without prejudice to the above ground the Commissioner has travelled beyond his jurisdiction as envisaged under Section 12AA of the Income Tax Act. The institution is existing solely for the purpose of education and is purely a charitable organization entitled for registration under Section 12A of the Income Tax Act. The denial of registration on flimsy grounds is unjustified. The Commissioner of Income Tax (Exemption) may please be directed to grant exemption under section 12A.*
- 3. Without prejudice to the above NO ground the appellant society was prevented in making timely compliance due to COVID-19 pandemic and in view of this typical situation the order of Commissioner of Income Tax (Exemption) should be quashed and the Commissioner be directed to decide the application for registration after affording proper and reasonable opportunity.*

4. *Without prejudice to the above ground the jurisdiction of Commissioner of Income Tax (Exemption) is limited in Section 12AA and the society being a purely charitable organization the registration may kindly be allowed.*

2. Briefly stated, the assessee society is registered under M.P. Society Registration Act, 1973 on 5th June, 2010 under the name of Chhattisgarh Diocese Board of Education CNI. The assessee has filed an application for grant of registration under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') in the prescribed Form No. 10A on 20th January, 2020 before the CIT(E), Bhopal. Learned CIT(E), Bhopal, had issued a notice on 28.05.2020 to the assessee society to ascertain the genuineness of the objects and activities of the society. Subsequently, another notice was issued on 10.06.2020. A part compliance to the said notices were made by the assessee. However, the details, as required by the learned CIT(E) issuing a questionnaire pertaining to section 12AA of the Act read with Rule 17A of the Income Tax Rules, 1962 (in short 'the Rules'), was not submitted by the assessee. The assessee failed to submit the evidence of tax payment on its tax liability for the financial years 2016-17, 2017-18 and 2018-19. Therefore, the learned CIT(E) has doubted on the correctness of books of account for the financial year 2016-17 to financial year 2018-19, which is to be ascertained as mandated under Rule 17A(e) of the Rules and provision of section 12AA of the Act. Another opportunity vide letter dated 28.01.2021 was afforded to the assessee, however, again the assessee society failed to make any compliance. Learned CIT(E), therefore, has refused to grant registration under section 12AA of the Act mentioning the reason that the application

filed by the assessee society was incomplete. Aggrieved by the order of learned CIT(E), the assessee has filed this appeal before us for adjudication of the issue pertaining to rejection of application for registration under section 12AA of the Act.

3. At the very outset, learned AR of the assessee has submitted that the assessee's application under section 12AA of the Act was rejected by learned CIT(E) without affording proper opportunity of being heard, and therefore, the order of learned CIT(E) is not sustainable in the eyes of law.

4. When a question with regard to the explanation on the part of the assessee for not making compliance before learned CIT(E), Bhopal, was made, learned AR of the assessee could not come up with any plausible explanation on the same. Further, on perusal of the order of learned CIT(E), wherein it is apparent that the assessee society has not complied with the requirement of law and was a persistent non-compliant when the opportunities were granted by learned CIT(E) on the several occasions. In view of the aforesaid facts and circumstances of the case, since no plausible explanation could have been submitted by learned AR of the assessee, also no supporting evidences were brought to our notice, which may substantiate that the assessee was not afforded with proper or reasonable opportunities while dealing with assessee's application under section 12AA. During the course of hearing before us, the learned AR of the assessee, instead of answering the query pertaining to non-compliance, has chosen to embark upon to explain the rights of the assessee and the duties of CIT(E). In such a situation, since no cogent

reason could have been brought to our notice, which may be considered as a reasonable cause for non-compliance, the order of learned CIT(E), Bhopal, is found to be reasonable, with no perversity. Consequently, we do not see any reason to interfere with the order of learned CIT(E), and therefore, the observations of learned CIT(E) in his order dated 10th February, 2021 are upheld.

5. In the result, the appeal of the assessee, without going into the merits of the issues, is dismissed in limine.

Order pronounced in the open court on 18/07/ 2023.

Sd/-
(RAVISH SOOD)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated: 18/07/2023

RK/-, Sr. P.S.(on tour)

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur