

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH "A", JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष

BEFORE: HON'BLE SHRI SANDEEP GOSAIN, JM &
HON'BLE SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 314/JP/2023
Assessment Year : 2023-24.

Priyadarshani Solar Mission and Water Saving Sansthan, 4-Kha-23, Housing Board Colony, Shastri Nagar, Jaipur.	बनाम Vs.	Commissioner of Income-tax (Exemption), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AADTP 0195 N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Sharwan Kumar Gupta, Advocate
राजस्व की ओर से / Revenue by : Shri Arvind Kumar (CIT)

सुनवाई की तारीख / Date of Hearing : 19.07.2023.
घोषणा की तारीख / Date of Pronouncement : 7/08/2023.

आदेश / ORDER

PER SANDEEP GOSAIN, J.M.

This is an appeal filed by the assessee against the order of Id. CIT (Exemptions), Jaipur dated 16.03.2023 passed under section 80G of the I.T. Act 1961. The grounds raised by the assessee are reproduced below :-

"1. The impugned order u/s 80G(5) of the Act dated 16.03.2023 is bad in law and on facts, without providing adequate & reasonable opportunity of being heard, being without jurisdiction and for various other reasons and hence the same may kindly be quashed.

2. The Id. CIT (E) erred in law as well as on the facts of the case in rejecting the application for grant Registration/approval u/s 80G(5) and in not granting Registration/approval. The rejection so made and refusal to grant Registration/approval u/s 80G(5) is contrary to the provisions of law and facts of the case. The same kindly be quashed.

3. That the impugned order so passed was in the contravention of the law prevalent at the relevant point of time and also on fact and hence may kindly be quashed. The Id. CIT (E) be directed to grant Registration/approval from the dated of application.

4. The Appellant prays your honors indulgences to add, amend or alter all or any of the grounds of the appeal on or before the date of hearing.

2. As to the facts of the present case, we noticed from the order of the Id. CIT (Exemptions) that the assessee applicant has filed an application in Form No. 10AB dated 30.09.2022 for seeking approval under section 80G(5)(iii) of the I.T. Act, 1961. While processing the application of the assessee, the assessee vide letter dated 02.01.2023 was required to furnish certain documents/explanations with regard to (1) Non-registration with RPT Act, 1959 and (2) Genuineness of Activities and non compliance by 17.01.2023, but no compliance was made by the assessee. A reminder letter was issued vide letter dated 19.01.2023 wherein date of hearing was fixed on 06.02.2023 but again the applicant has requested to adjourn the case and the case was adjourned to 24.02.2023. In compliance the assessee furnished its reply dated 24.02.2023, which were examined and placed on record and some discrepancies were found. Further, the case was finally adjourned to 10.03.2023 intimating it as final opportunity, but this time also the applicant has again requested to adjourn the case. The Id. CIT (E) holding that it is a limitation matter, he decided the case on the basis of material placed on record and the application of the

assessee in Form 10AB for approval under section 80G was rejected for non furnishing of the required documents/information.

Now the assessee is in appeal before us.

3. We have heard the rival submissions and perused the material available on record. The Id. CIT (E) decided the case of the assessee ex parte by rejecting the application of the assessee in Form No. 10AB for seeking approval under section 80G(5)(iii) on the ground that neither any one appeared on behalf of the assessee on the date of hearing nor furnished the required documents/information as sought from the assessee. Before us, the grievance of the assessee was that the Id. CIT (E) without affording adequate opportunity of being heard rejected its application in Form 10AB, which is in gross breach of principles of natural justice. Before us, the Id. A/R submitted that the Id. CIT (A) decided the case of the assessee ex parte without giving reasonable opportunity of hearing. On the contrary, from the order of the Id. CIT (E), we find that the Id. CIT (E) has given as many as 4 opportunities i.e. on 02.01.2023, 19.01.2023, 07.02.2023 and 04.03.2023. However, keeping in view the circumstances of the case, we are of the considered view that it will appropriate and in the interest of natural justice, to remand the matter back to the file of the Id. CIT (Exemptions) to decide the matter afresh after affording a reasonable opportunity to the assessee society to submit documents as required by the revenue authorities.

4. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. CIT (E) shall in no way be construed as having any

reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT (E) independently in accordance with law.

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

Order pronounced in the open court on 7/08/2023.

Sd/-
(राठौड़ कमलेश जयंतभाई,)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-
(संदीप गोसाईं)
(SANDEEP GOSAIN)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 7/08/2023.

das/

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

1. अपीलार्थी / The Appellant- Priyadarshini Solar Mission and Water Saving Sansthan, Jaipur.
2. प्रत्यर्थी / The Respondent-The CIT (Exemptions), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File {ITA No. 314/JP/2023}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar