

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष**  
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.464/Kol/2023  
Assessment year: 2023-24

Netra Pradip Rural Eye Trust.....Appellant  
Kulipara, Dhobapara,  
Hooghly, W.B-712512.  
[PAN: AABTN3052C]

vs.

CIT(Exemptions), Kolkata.....Respondent

**Appearances by:**

Shri P. K. Ray, Advocate, appeared on behalf of the appellant.

Shri Sunil Kr. Agarwala, CIT(DR), appeared on behalf of the Respondent.

Date of concluding the hearing : August 07, 2023

Date of pronouncing the order : August 07, 2023

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 25.04.2023 of the Commissioner of Income Tax, Kolkata [hereinafter referred to as the CIT(Exemption)].

2. The assessee is aggrieved against the action of the CIT(Exemption) in rejecting the application of the assessee for final registration as a charitable institution u/s 12A(1)(ac)(iii) of the Income Tax Act (hereinafter referred to as the 'Act').

3. The ld. counsel for the assessee has submitted that the assessee-trust is a charitable institution. It was registered as a charitable institution u/s 12A since 31.03.2012 as per the earlier unamended

provision of section 12A of the Act. However, as per the amended provision of section 12A read with newly inserted section 12AB of the Act, the assessee applied for fresh registration u/s 12A(1)(ac)(i) of the Act and was granted provisional registration. The assessee thereafter applied for registration u/s 12A(1)(ac)(iii) of the Act. However, the ld. CIT(Exemption) has dismissed the application of the assessee ex parte of the assessee without providing opportunity to the assessee to present its case. The ld. counsel, in this respect, has submitted that the assessee-trust has been enjoying the registration as a charitable institution since 2013 and has never violated any conditions or statutory provisions. That all the documents necessary for consideration were already attached with the online application form, however, the ld. CIT(Exemption), even without examining the application form along with records, dismissed the application of the assessee which was against the principles of natural justice. He has submitted that no notice of hearing was given to the assessee/appellant in this respect. That the ld. CIT(Exemption) allegedly issued the notice of hearing through email, which did not come to the notice of the assessee. That even otherwise, the ld. CIT(Exemption) before rejecting the application should have gone through the record and should have pointed out reasons for rejection of the application.

4. The ld. DR, on the other hand, has submitted that since the assessee did not furnish the required details as called for by the ld. CIT(Exemption), therefore, the ld. CIT(Exemption) has rightly rejected the application of the assessee.

5. We have heard the rival contentions and gone through the record. Before proceeding further, it is pertinent to mention here that this Tribunal is receiving many appeals from the different assesseees on the

ground that their appeals are being dismissed by the first appellate authorities ex parte on the ground of non-participation in the proceedings, whereas, common plea in all these appeals has been that no proper notice of hearing has been served upon the concerned assessee/appellants and therefore, they were not aware of regarding calling of information etc. by the concerned authorities. Similar plea has been raised in this appeal also. In view of this, the impugned order of the CIT(Exemption) is set aside. The matter is restored to the file of the CIT(Exemption) for decision afresh on merits on the application of the assessee with a direction that the ld. CIT(Exemption) will give proper and adequate opportunity to the assessee/appellant to present its case. The ld. CIT(Exemption) will serve the notices of hearing both electronically as well as through registered post and thereafter to decide the issue afresh in accordance with law.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

***Kolkata, the 7<sup>th</sup> August, 2023.***

Sd/-  
[डॉक्टर मनीष बोराड /**Dr. Manish Borad**]  
लेखा सदस्य /**Accountant Member**

Sd/-  
[संजय गर्ग /**Sanjay Garg**]  
न्यायिक सदस्य /**Judicial Member**

Dated: 07.08.2023.

RS

*Copy of the order forwarded to:*

1. Netra Pradip Rural Eye Trust
2. CIT(Exemptions), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches