

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 227/Asr/2023

Assessment Year: NA

Managing Committee Swami Vs. CIT (Exemptions),
Premanand Mahavidyalaya, Chandigarh
Mukerian, Hoshiarpur, 144 001,
Punjab
[PAN: AABAM 6300M]
(Appellant) **(Respondent)**

I.T.A. No. 228/Asr/2023

Assessment Year: NA

Shiv Shakti Mandir Vs. CIT (Exemptions),
180, Lajpat Nagar, Chandigarh
Jalandhar, 144 001,
Punjab
[PAN: AASAS8910Q]
(Appellant) **(Respondent)**

I.T.A. No. 229/Asr/2023

Assessment Year: NA

Maharishi Dayanand Math Vs. CIT (Exemptions),
(Ved Mandir) Dhan Mohalla, Chandigarh
Purani Railway Road,
Jalandhar, 144 001, Punjab
[PAN: AACTM 5816E]
(Appellant) **(Respondent)**

Appellant by : Sh. J. S. Bhasin, Adv.
Respondent by : Sh. Hintendra Bhauraoji Ninawe, CIT DR
Date of Hearing : 28.08.2023
Date of Pronouncement : 31.08.2023

ORDER

Per Bench:

The captioned appeals are filed by the assessee against the separate orders of the Id. Commissioner of Income Tax (Exemptions), Chandigarh dated 19.12.2022 & 16.01.2023 challenging therein rejection of application for grant of regular registration and cancellation of provisional registration granted *per se* u/s 10(23C)(vi) and 12AA arbitrary against principles of natural justice on the following identical grounds of appeals being extracted from appeal in ITA No. 227/Asr/2023 as under:

- “1. *That the Id. CIT(E) erred in arbitrarily rejecting the assessee’s application for grant of regular registration u/s 10(23C)(vi).*
2. *That for want of receipt/service of any of the notices said to have been issued by the Id. CIT(E), the rejection of application for grant of regular registration and cancellation of provisional registration earlier granted, is per se arbitrary, against natural justice and hence liable to be set aside and quashed.*

3. *That even otherwise, all the relevant documents and evidence were part of the application filed which did not justify arbitrary rejection of assessee's application.*
4. *That the order under appeal being unjust, arbitrary against natural justice and de hors the facts and law, is liable to be set aside."*

2. The appellant has filed an application for approval under clause (iii) of first proviso to clause (23C) of section 10 [for applicants covered under sub-clause (iv) of clause (23C) of section 10] of the Act on 01.06.2022. The Ld. PCIT Exemption has rejected the application by observing that in the absence of any submission from the applicant it is not possible to ascertain the objects and activities carried out by the applicant. Accordingly, the Id. CIT(E) has rejected the application filed by the applicant for approval u/s 10(23C) of the Act by observing that consequent to lack of registration will apply from this F.Y. 2022-23 onwards and supersede any approval granted u/s 10(23C) of the Act by any authority at any earlier time.

3. At the outset, the Id. counsel for the assessee has submitted that this a covered matter by Coordinate Bench decision **in the case of "Jagriti Foundation Charitable Trust v. CIT(E)", Chandigarh in ITA No. 174/Asr/2023 order dated 12.07.2023 on the issue of violation of principles of natural justice, in view of non-service of notices issued by the Id. CIT(E) and non-communications at the same for calling for**

information. Thus, the counsel argued that Id. CIT(E)'s rejection of the assessee's application for grant of regular registration u/s 10(23C) of the Act, ex-parte qua the assessee is per se illegal.

4. Per contra, the Id. CIT-DR supported the impugned order. He contended that there are notices issued by the Id. CIT(E) to the appellant assessee, which remained un-complied. However, he has no objection to the request of the Id. AR in restoring the matter to the CIT(E) to adjudicate the matter afresh in view of the principles of natural justice.

5. Heard the rival contention, perused the material on record and the impugned order. Admittedly, the application for grant of registration u/s 10(23C) of the Act filed by the applicant on 24.11.2022 for grant of regular registration has been rejected by the Id. CIT(E) ex-parte qua the assessee trust. The Id. CIT(E) has mentioned that there are notices for granting opportunity of being heard were issued to the applicant trust, however, he has not mentioned the factum of service of these notices. Thus, the CIT(E) proceeded to reject the application of the trust ex-parte qua the applicant trust based on the material available on the record and thereby rejected the application by upholding that the assessee has been non-cooperative, and

it is safely concluded that the assessee did not want to adduce the evidence as it would expose falsity and lack of genuineness.

6. From the above, it is evident that such an action of the Id. CIT(E) in rejecting the application for grant of regular registration and cancellation of provisional registration earlier granted is held to be per se arbitrary and against the principles of natural justice. In our view, this is fit case to be remanded back to the CIT(E) with the direction to adjudicate the matter afresh after granting adequate opportunity of being heard, in order to enable the appellant trust to file the necessary details on the nature of the objects, genuineness of activities and any other information so desired by the Id. CIT(E) to satisfy itself for the purpose of granting registration u/s 10(23C) of the Act as per mandate. The counsel undertakes that the assessee shall cooperate in the fresh proceeding for adjudication of its application for grant of registration u/s 10(23C) of the Act, on merits of the case.

7. On parity of facts, following Coordinate Bench decision in the case of “Jagruti Foundation Charitable Trust v. CIT(E)”, (Supra) we consider it deem fit to restore back the matter to the file of the CIT(E) to adjudicate the application of the applicant trust for grant of regular registration u/s

10(23C)(vi) of the Act, afresh after granting adequate opportunity of being heard and considering the details filed along with the application and to be filed in the course of fresh proceedings. At the same time, the assessee trust is also directed to co-operate in the fresh proceedings by furnishing the relevant documents and evidence required by the Id. CIT(E) to his satisfaction on the queries raised in reference to the nature of the object and genuineness of the activities and the manner of carrying the activities as per amended provisions of law for grant of registration under the Act. Accordingly, the matter is restored to the Id. CIT(E).

8. The facts in ITA No. 227/Asr/2023 are similar to the facts in ITA No. 228/Asr/2023 and ITA No. 229/Asr/2023 except variation of the section being 12AA and therefore our observation and finding given above would be applicable to these two appeals in mutatis/mutandis.

9. In the result, the appeals of the assesseees are allowed for statistical purposes.

Order pronounced in the open court on 31.08.2023

Sd/-
(Anikesh Banerjee)
Judicial Member
GP/Sr.PS

Sd/-
(Dr. M. L. Meena)
Accountant Member

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT (Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.

True Copy

By Order