

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI C. M. Garg, JUDICIAL MEMBER
and
SHRI M. BALAGANESH, Accountant Member**

ITA No. 1079 & 1080/Del/2023

(Assessment Year: 2023-24)

Saday Charitable Trust, D-36, Gali No. 9, Friends Enclave, Munda, Nangloi, New Delhi (Appellant) PAN:AAZTS9873N	Vs. CIT(Exemption), New Delhi (Respondent)
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Assessee by :	Shri Atreya Gandhaudhury, Adv
Revenue by:	Shri H. K. Choudhary, CIT DR

Date of Hearing	06/09/2023
Date of pronouncement	15/09/2023

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeals in ITA No. 1079 and 1080/Del/2023 for AY 2023-24, arise out of the order of the Id CIT(Exemption), Delhi dated 20.02.2023 in Appeal CIT(EXEMPTION)DELHI/2022-23/12AA/11480 passed u/12AB(1)(B)(II)(b) of Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. The assessee has raised the following grounds of appeal in ITA No. 1079/Del/2023:-

"1. THAT the impugned order passed by the learned Commissioner of Income Tax (Exemption) Delhi unjust and arbitrary, contrary to provisions of law and facts available on record.

II. The Ld. CIT(Exemption) Delhi has erred in both law and on facts in rejecting application for seeking registration u/s12A(1)(ac)(iii) of the Income Tax Act, 1961 filed by the appellant charitable Trust, Solely on the basis of the wrongly drawn unilateral inferences and observations that the appellant has failed to comply to his notices,

which are contrary to the facts of appellant case, though the appellant has not served any notice as per the procedure prescribed under the E-proceedings/guidelines issued by CBDT i.e serve of notice on registered mail followed by sms alerts on registered mobile no.

III. That the learned Commissioner of Income Tax (Exemptions) Delhi has not considered completely the information/evidence brought on records at the time of filing application on merit in correct perspectives manner and without granting any fair opportunity of being heard while denying the rejection of registration u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961."

3. The assessee has raised the following grounds of appeal in ITA No. 1080/Del/2023:-

"I. THAT the impugned order passed by the learned Commissioner of Income Tax (Exemption) Delhi unjust and arbitrary, contrary to provisions of law and facts available on record.

II. The Ld. CIT(Exemption) Delhi has erred in both law and on facts in rejecting application for seeking registration u/s80G(5)(iii) of the Income Tax Act, 1961 filed by the appellant charitable Trust, Solely on the basis of the wrongly drawn unilateral inferences and observations that the appellant has failed to comply to his notices, which are contrary to the facts of appellant case, though the appellant has not served any notice as per the procedure prescribed under the E-proceedings/guidelines issued by CBDT i.e serve of notice on registered mail followed by sms alerts on registered mobile no.

III. That the learned Commissioner of Income Tax (Exemptions) Delhi has not considered completely the information/evidence brought on records at the time of filing application on merit in correct perspectives manner and without granting any fair opportunity of being heard while denying the rejection of registration u/s 80G(5)(iii) of the Income Tax Act, 1961."

4. We have heard the rival submissions and perused the materials available on record. The assessee is a public charitable trust created on 09.06.2020. The assessee trust filed an application for registration u/s 12A(1)(ac)(iii) in Form NO. 10AB on 27.09.2022 along with financial statements as on 31.03.2022; trust deed, Form 10AC and activities carried out by the assessee trust. The Id CIT(E) issued questionnaire dated 28.11.2022 calling for certain details/

documents/ clarification in support of the claim of registration of the assessee trust. The Id CIT(A) also granted further opportunity on 10.01.2023 and 09.02.2023. No replies were filed by the assessee according to the Id CIT(E). Accordingly, the Id CIT(E) proceeded to conclude that he is not able to verify the genuineness of the activities carried out by the assessee and proceeded to reject the application in Form No. 10AB seeking registration of the trust u/s 12A(1)(ac)(iii) of the Act vide his order dated 20.02.2023. Consequentially the application made in Form 10AB seeking exemption u/s 80G(5) of the Act was also rejected by the Id CIT(E) vide his rejection order dated 20.02.2023.

5. Aggrieved by these two orders, the assessee is in appeal before us.

6. Before us the Id AR submitted that SMS alerts were not sent to the managing trustee once the notices were uploaded in the portal. The consultant of the assessee logged into the portal on 16.03.2023 to check the status of the application in Form 10AB and came to know about issuance of the notice and closure of the proceeding by rejecting the registration. Thereafter, the assessee has preferred appeals before us. He prayed for one more opportunity to be given to the assessee trust to make effective representation before the Id CIT(E). The Id DR did not make serious objection for the same.

7. Considering the totality of the facts and circumstances of the case, we are inclined to restore these appeals to the file of the Id CIT(E) for de novo adjudication in accordance with the law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is at liberty to furnish fresh evidences, if any, in support of its application seeking registration u/s 12A and seeking exemption u/s 80G of the Act. With these directions, the

grounds raised by the assessee in both the appeals are allowed for statistical purposes.

8. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 15/09/2023.

Sd/-
(C. M. Garg)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 15/09/2023
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi