

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 Nos.278 & 279/RPR/2023

Unnati Jan Kalyaan Shikshan Samiti H. No.3, Om Bhawan, Avanti Vihar, Raipur (C.G.)	V s	The Commissioner of Income Tax (Exemption), Bhopal (M.P)
PAN: AABTU0915H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Praveen Goyal, CA
राजस्व की ओर से /Revenue by	:	Shri Debashis Lahiri, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	26.09.2023
घोषणा की तारीख/ Date of Pronouncement	:	27/09/2023

आदेश / O R D E R

Per Arun Khodpia, AM :

The captioned appeals are filed by the assessee against the orders passed by the Ld. CIT(Exemption), Bhopal dated 08.06.2023 u/s. 12AB and U/s.80G of the Income Tax Act, 1961 (for short 'the Act') respectively. Since, these appeals pertains to a single assessee, having common and inter linked issues, arose from two orders of Learned CIT(Exemption), Bhopal in Form 10AD dated 08.06.2023, we are taking these appeals for adjudication under this common order.

2. We shall first take up the appeal filed by the revenue in ITA No.278/RPR/2023 as lead matter wherein grounds of the appeal raised by the assessee are as under:

“1. That on the facts and in the circumstances of the case and in law, the order passed by the Id. CIT (Exemption), Bhopal u/s 12AB of the Act dated 08/06/2022 is illegal and void ab initio.

2. That on the facts and in the circumstances of the case and in law, the Commissioner of Income Tax (Exemption) failed to provide an effective opportunity of heard to the appellant.

3. The appellant craves to add, alter or delete any of the grounds of appeal during the course of appellate proceedings.”

3. Brief facts in this case are that the assessee had applied for registration under the new provisions of section 12AB of the Act and three opportunity letters were issued to the assessee by the CIT(Exemption) and various documents were called for to process the application and to verify the object and activities of the assessee. In response to the letter, the assessee has not submitted the requisite documents. Considering the aforesaid facts, the CIT(Exemption) was of the view that the application of the assessee cannot be processed due to non-compliance of the assessee, thus, the same is hereby rejected.

4. Aggrieved with the order of the CIT(Exemption), the assessee carried the matter in appeal before us.

5. At the very outset, the Ld. AR for the assessee drew our attention to the copies of the notices issued to the assessee on 06.04.2023, 15.05.2023 and 30.05.2023 by the office of the CIT(Exemption), Bhopal pertains to the application of the assessee for registration /approval u/s.12AB of the Act. Copies of one of the notices referred to by the assessee placed at Page 3 to 5 of the assessee's paper book are extracted as under:



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
CIT EXEMPTION BHOPAL

To, UNNATI JAN KALYAAN SHIKSHAN SAMITI N 3 OM BHAVAN AVANTI VIHAR ,POST RAVIGRAM RAIPUR 492006 ,Chhattisgarh India	
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PAN: AABTU0915H	Application No: CIT EXEMPTION BHOPAL/2023- 24/12AA/10074	DIN & Notice No: ITBA/EXM/F/EXM43/2023 -24/1051909636(1)	Date: 06/04/2023
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Sir/ Madam/ M/s,

Subject: Proceeding u/s 12A(1)(ac)(iii)

The hearing for the above noted application no. has been fixed on **03/05/2023** at **12:30 PM** in my office.

With reference to your application in Form 10AB you are hereby required to furnish the following documents/ clarification/ information on the date mentioned above.

S.No.	Description
1	Copy of Registration U/s 12AB/80G/10(23C)in Form 10AC and copy of old registration U/s 12A/80G/10(23C) already granted before 01.04.2021, if any.
2	A note specifying the main area of your charitable/ religious activities carried out during last 3 years with documentary proof, location of the activities and photos.
3	Please furnish Registration Certificate and registered byelaws/objects with Registrar of Societies/Registrar of Public Trust.
4	Please submit certified copy of Audit Reports with all annexures for last three years.
5	Please attach a certified copy of the Trust Deed/ Memorandum of Association/registration of the society.
6	Please attach details of donations made during last three years.
7	Please attach details of donations received, including corpus donation, during last three years with name, address, mobile number and date of donation.
8	If educational institutions are running then produce copy of affiliation to run educational institution, number of students in each class, No. of RTE students, and list of teaching & non-teaching staff.
9	Certified copy of Title deed/ Rent Agreement, if any?
10	Copy of acknowledgement of ITR for last 3 years.

Note: If digitally signed, the date of digital signature may be taken as date of document.
ROOM NO:201,II Floor, REAC, BHOPAL, REAC, BHOPAL, BHOPAL, Madhya Pradesh, 462016
Email: BHOPAL.CIT.EXMP@INCOMETAX.GOV.IN, Office Phone:07552426419

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.
* DIN- Document identification No.

11	If any business is carried out by the assessee as per section 11(4)/11(4A) of the Act, please submit the details thereof and annual Audit Report for such business for last 3 years.
12	Details of modification of the objects, if any.
13	Please attach a copy of the proof of identity of the main Trustee/ President/director.
14	Please attach details of your bank accounts.
15	Please provide details of registration under the Foreign Contribution (Regulation) Act, 2010, GST, CSR if any.
16	Please submit the copy of order of the last rejection order, if any.
17	Details of payment made to specified person covered u/s 13(3) of the I.T. Act.



NEERAJA PRADHAN
CIT EXEMPTION BHOPAL

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

This document is digitally signed

Signer: NEERAJA PRADHAN
Date: Thursday, April 20, 2023 3:53 PM
Location: DIRECTORATE, India

1 3 : 3 9

e-Filing Anywhere Anytime
Income Tax Department, Government of India

UNNATI JAN KALY...
Trust

Dashboard e-File e-Proceedings View Notices Detailed Notices

Notice/Letter pdf

Notice/ Communication Reference ID: 100060909655

Date: -

To: -

CC: -

From: BHOPAL.CIT.EXMP@INCOMETAX.GOV.IN

Subject: [ITBA]Hearing Notice

Dear UNNATI JAN KALYAAN SHIKSHAN SAMITI,

Please find attached the Notice u/s for PAN AABTU0915H and A.Y. 0-.

Please quote your PAN in all future correspondences.

Note :

- This communication is computer generated and may not contain signature.
- This communication may be treated as compliant with the requirements of Income Tax Rules 127 and 127A.
- Signed copy may be sent separately if not already digitally signed.
- Please quote your PAN in all communications.
- Income Tax Department does not seek any taxpayer information like user name, password, details of ATM, credit cards, etc. Taxpayers are advised not to part with such information on the basis of emails.

AABTU0915H_Hearing
Notice_1051909636(1)_0612023.pdf

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Handwritten signature

According to notice/ letter copy of which is placed before us at Page No.5, the e-mail id of the assessee is found to be blank. Similar was the status of the other two notices also. The Ld. AR submitted that since the communications sent to the assessee were not having been received in email therefore, the said communication could not be considered as valid communication. Also, it was

submitted by the Ld. AR that such communication were neither received by the assessee or email id or through real time alerts on the mobile number uploaded in the PAN profile of the assessee. The Ld. AR had placed reliance in the case of Suman Jeet Agarwal v. ITO - [2022] 143 taxmann.com 11 (Delhi) wherein the Hon'ble High Court had held as under:

“25.13 Further, a perusal of the Compliance Affidavit reveals that while the function of generation of Notice on ITBA portal and digital signing of the Notice is executed by the JAO, the function of drafting of the e-mail to which the Notice is attached and triggering the e-mail to the assessee is performed by the ITBA e-mail software system.

Thus, **mere generation of Notice on the ITBA Screen cannot in fact or in law constitute issue of notice**, whether the notice is issued in paper form or electronic form. In case of paper form, the notice must be despatched by post on or before 31st March 2021 and **for communication in electronic form the e-mail should have been despatched** on or before 31st March 2021.”

6. It was submitted by the Ld. AR that since the assessee was prevented by reasonable cause that the notices issued by the Ld.CIT(Exemption), Bhopal were neither communicated to the assessee on the registered email id of the assessee i.e. cahhabda@gmail.com nor through real time alerts, thus, the application of the assessee for granting of registration which was rejected by the Ld. CIT(Exemption) was without adequate or proper opportunity to the assessee and therefore, the assessee may be allowed another opportunity to represent its case on merits before the CIT(Exemption).

7. Contrary to the submissions of the Ld. AR, the Ld. CIT-DR submitted that as the assessee has applied for registration under the new provisions of section 12AB of the Act and three opportunity letters were issued to the assessee by the CIT(Exemption) and various documents were called for to process the application and to verify the object and activities of the assessee. However, the assessee

had chosen not to submit requisite documents. Considering the aforesaid facts, the CIT(Exemption) was of the view that the application of the assessee cannot be processed due to non-compliance of the assessee, thus, the same is hereby rejected. The Ld. CIT-DR vehemently supported the order of the CIT(Exemption).

8. We have heard the rival contentions and perused the material available on record and case law relied upon by the Ld. AR for our consideration. Admittedly the assessee has filed an application for granting of registration u/s.12AB of the Act before the CIT(Exemption), Bhopal. However, though the assessee had been provided three opportunities i.e. 06.04.2023, 15.05.2023 and 30.05.2023, the assessee remain non-compliant towards such notices. On a perusal of the copies of the notices it is apparent that the registered email id of the assessee were missing, therefore, the assessee's claim that such notices were never delivered in the email id of the assessee, could not be discarded. Under such circumstances, in the interest of justice and respectfully following the decision of the Hon'ble Delhi High Court in the case of Suman Jeet Agarwal v. ITO - [2022] 143 taxmann.com 11 (Delhi), we are of the considered view that in all fairness the matter should be restored to the file of the CIT(Exemption) so that application of the assessee can be considered in light of the evidence /information/explanation /submission of the assessee. We order accordingly. Needless to say, the Ld. CIT(Exemption) shall grant reasonable opportunity of being heard to the assessee who shall remain at liberty to substantiate its claim on the basis of supporting documentary evidence. The assessee is also directed to make necessary compliances as and when called for failing which the Ld. CIT(Exemption) would be at liberty to dispose of the application in accordance with law.

9. In the result, appeal of the assessee in ITA No.278/RPR/2023 is allowed for statistical purposes in terms of our aforesaid observations.

ITA No.279/RPR/2023

10. with respect to the captioned appeal i.e. ITA No.279/RPR/2023, the application for granting registration u/s.80G was also dealt with by the Ld. CIT(Exemption) with similar facts wherein the assessee was unable to comply with the notices of the Ld. CIT(Exemption) on three occasions viz. 06.04.2023, 15.05.2023 and 30.05.2023. However, under similar circumstances, the assessee had neither received any notices in the registered email id nor any real time alerts, therefore, the assessee was prevented by reasons beyond its control to make requisite compliance before the CIT(Exemption). Since the facts and circumstances of the ITA No.279/RPR/2023 wherein the assessee has requested for registration u/s.80G which was rejected by the Ld. CIT(Exemption) vide order dated 08.06.2023, having same set of facts except for request for registration under different sections, our decision rendered in ITA No.278/RPR/2023 qua application for registration u/s.12AB of the Act shall mutatis mutandis apply in ITA No.279/RPR/2023. Thus, grounds of appeal raised by the assessee are allowed for statistical purposes in terms of our aforesaid observation as were recorded by us while deciding the appeal in ITA No.278/RPR/2023.

11. In the result, appeal of the assessee in ITA No.279/RPR/2023 is allowed for statistical purposes in terms of our aforesaid observations.

12. In the result, both the appeals of the assessee are allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the court on 27/09/2023.

Sd/-
(RAVISH SOOD)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 27/09/2023

SB

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.

// True Copy //

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur