

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 20/RPR/2023

Society for Upliftment Education and Health Society,
(Known as -SULEH)
A-4, Ward No.32, Anand Vihar
Raipur (C.G.)-492 001
PAN : ABFAS5044P

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax (Exemption)
Bhopal (M.P)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Smt. Ila M Parmar, CIT-DR

सुनवाई की तारीख / Date of Hearing : 22.08.2023

घोषणा की तारीख / Date of Pronouncement : 17.10.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee society is directed against the order passed by the Commissioner of Income-Tax (Exemption), Bhopal, dated 22.12.2022, declining the assessee's application for registration u/s. 12AB of the Income-tax Act, 1961 (for short 'Act'). The assessee society has assailed the order of the CIT(Exemption), Bhopal, on the following grounds of appeal before us:

“1) That learned CIT(Exemption) erred in rejecting application for grant of registration u/s. 12A(1)(ac)(iii) of the Income-tax Act, 1961 of the society on the basis of grounds those are not required to be fulfilled as per law while disposing of said application of the society, without properly appreciating the materials furnished before her to prove that society is genuine and is engaged in charitable activities and without considering the facts and circumstances of the case properly and judicially.

2) That learned CIT(Exemption) erred in rejecting application for grant of registration u/s.12A(1)(ac)(iii) of the Income-tax Act, 1961 of the society without giving proper opportunity of being heard as per demand of law and principle of natural justice.

3) The appellant reserves the right to add, amend, or alter/ withdraw any ground or grounds of appeal at the time of hearing.”

2. Succinctly stated, the assessee society, which is, inter alia, stated to be engaged in the activities of taking care of poor children's fees/stationary/school dress, providing sports equipment and prize money for competitions, running smart classes & training, organizing free eye camps/dental checkup camps/health camps, carrying out plantation, renovating toilets, providing sanitary napkins, and organizing

debate competitions etc., had applied in Form 10AB for registration u/s.12AB of the Act with the CIT(Exemption), Bhopal.

3. Considering the fact that in the “income and expenditure account” submitted by the assessee society for F.Y 2019-20 to F.Y 2021-22, no expenditure was incurred in relation to the aforesaid activities, which were claimed to have been carried out by the assessee society, the CIT(Exemption), Bhopal called upon the assessee society to furnish nature wise details of such expenses along with supporting documents. Also, the CIT(Exemption), Bhopal, directed the assessee society to place on record a copy of the registration certificate of schools along with photos and details of students and teachers and a copy of its registered bylaws. In reply, the assessee society, vide its letter dated 14.1.2022, submitted that certain clerical errors had crept in while preparing the audit reports for the aforesaid years, i.e., F.Y. 2019-20 to F.Y 2021-22, as a result whereof, the aforesaid expenses incurred in relation to the activities of the assessee society had remained omitted to be disclosed. Interestingly, the assessee society furnished another copy of the audit reports for all the aforementioned three years, i.e., FY. 2019-20 to FY 2021-22, after removing the so called errors in the earlier reports.

4. The CIT(Exemption) observed that both the old and new audit reports for the aforementioned financial years, i.e., FY. 2019-20 to F.Y 2021-22 were completely different. Analyzing the old vis-à-vis new audit reports for all three years, the CIT(Appeals) came across a glaring mismatch in the total income and expenditure, as follows:

	AY 2020-21		AY 2021-22		AY 2022-23	
	Audit Report 1	Audit Report 2	Audit Report 1	Audit Report 2	Audit Report 1	Audit Report 2
Income	97102.00	83227.00	12000.00	112422.00	22163.00	59243.00
Expenditure	115820.30	101945.00	13567.40	93989.50	67096.10	104176.10
Profit/Loss	-18718.30	-18718.00	-1567.40	18432.50	-44933.10	-44933.10

The CIT(Exemption) further observed that though the assessee society had earlier shown "school fees" in the income side of its "income and expenditure account," but later on, it was claimed that the assessee society was not running any schools or educational institutions independently. Referring to the aforesaid serious discrepancies emerging from the books of account and audit reports of the assessee society, the CIT(Exemption) observed that the assessee society had never maintained the same properly. Observing that the assessee society was maintaining two types of audit reports for each year, the CIT(Appeals) was of the view that on the said count itself, it was not liable for registration u/s.12AB of the Act. Accordingly, the CIT(Exemption) vide his order dated 22.12.2022 declined the application of the assessee society for a grant of registration u/s.12AB of the Act.

5. Aggrieved, the assessee society has assailed the order passed by the CIT(Exemption), Bhopal, declining its application for registration u/s 12AB of the Act before us.

6. We have heard the Id. Authorized Representatives of both the parties, perused the order of the CIT(Exemption), Bhopal, dated 22.12.2022, and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. A.R. At the very threshold of hearing of the appeal, on being queried by the bench as to on what basis the assessee society had filed a twin set of audit reports before the CIT(Exemption), Bhopal, the Ld. Authorized Representative (for short, "AR") failed to come forth with any plausible explanation as regards the same.

7. Before proceeding any further, we deem it fit to cull out the provisions of Section 12AB of the Act, which reads as under (relevant extract) :

"12AB. (1) The Principal Commissioner or Commissioner.....

(a) where the application is made

(b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,—

(i) call for

(ii) after satisfying himself.....

(A) pass an order.....

(B) if he is not so satisfied, pass an order in writing **rejecting such application** and also canceling its registration after affording a reasonable opportunity of being heard;"

(emphasis supplied by us)

8. On a careful perusal of the order of the CIT(Exemption), Bhopal, it transpires that it is a matter of fact borne from the record that the assessee society on being queried about the expenses incurred in relation to the activities which were claimed to have been carried out by it, had come forth with two audit reports of the assessee

society for F.Y 2019-20 to F.Y 2021-22. It is absolutely incomprehensible and a matter of serious concern as to how two sets of audit reports, which, as observed by the CIT(Exemption), revealed a glaring mismatch in the total income and expenditure, had been filed by the assessee society in the course of the proceedings before him.

9. Be that as it may, we are of a strong conviction that as the genuineness of the activities of the assessee society has not been substantiated, no infirmity emerges from the order of the CIT(Exemption), Bhopal, who had rightly declined its application for grant of registration u/s. 12AB of the Act. We, thus, in terms of our aforesaid observations, uphold the order of the CIT(Exemption), who, in our view, had rightly declined the application filed by the assessee society for grant of registration u/s.12AB of the Act. Thus, the **Grounds of appeal** raised by the assessee society are dismissed in terms of our aforesaid observations.

10. In the result, the appeal of the assessee society is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 17th day of October, 2023.

Sd/-

ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-

RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 17th October, 2023

**#SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Exemption), Bhopal (M.P)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.