

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “A”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.1618/DEL/2023                      [U/s 80G]**

**AND**

**ITA No.1619/DEL/2023                      [U/s 12AA]**

Baba Farid Sewa Trust, Near Gurudwara, Jhajjar Road, Rewari-123401 PAN- AAETB5172C	<u>Vs</u>	Commissioner of Income-tax (Exemptions), Chandigarh.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Sh. Vikas Kumar, Adv. & Sh. Akash, CA	
<b>Department represented by</b>	Sh. Zafarul Haque Tanweer, CIT(DR)	
<b>Date of hearing</b>	17.10.2023	
<b>Date of pronouncement</b>	17.10.2023	

**ORDER**

**PER KUL BHARAT, JM:**

The captioned appeals, preferred by the assessee, are directed against separate orders dated 22.03.2023 u/s 80G and 16.03.2023 u/s 12AA of the Income-tax Act, 1961, hereinafter referred to as the “Act”, passed by the learned Commissioner of Income-tax (Exemptions), Chandigarh. Both the appeals were heard together and are being disposed of by a common order for the sake of convenience.

2. First we take up ITA no. 1619/Del/2023 u/s 12AA of the Act. The assessee has raised following grounds of appeal:

*“1. That the orders passed on 16.03.2023 vide Form 10AD (See rule 2C or 11AA or 17A) by the learned Commissioner of Income-tax (Exemptions), Chandigarh [hereinafter referred to as the 'CIT(E)'], has been arbitrary and unjust in denying the registration application for registration u/s 12A(l)(ac)(iii) of the Act under section 12AB ex-party without give proper opportunity through proper mode of communication.*

*2. That the learned CIT(E), Chandigarh has erred both in law and on facts in rejecting application for seeking registration U/S 12AB of the Act filed by the appellant Charitable Trust, solely on the basis of absence of the requisite submissions of the appellant in response to the letter issued by Ld. CIT(E) while the fact is that such letter was uploaded by Ld. CIT(E) only on E-Filing portal without communicating through registered E-Mail, SMS on registered mobile and /or postal service which is gross violation of natural justice*

*3. That in any view of the facts and circumstances of the case of the appellant Charitable Trust it is entitled for grant of registration U/S 12AB of the Act, which be kindly granted*

*4. The Appellant craves the leave to add, amend, alter and/or delete any of the above grounds of appeal at/or before the time of hearing as the circumstances of the case may require or justify.”*

3. The appeal is time barred by ten days. The assessee has filed application seeking condonation of delay. Learned counsel for the assessee reiterated the submissions as made in the application. Learned DR opposed the submissions. Looking to the facts as stated in the application, the delay in filing the appeal is condoned and the appeal is taken up for hearing.

4. Facts giving rise to the present appeal are that the assessee filed application for registration u/s 12A(10(ac)(iii) of the Act on 7.10.2022. The learned CIT(Exemptions) called upon the assessee to furnish certain supporting evidences. Learned CIT(E) recorded that on the give date no one attended the proceedings nor any response to the notice was given. Therefore, the application of the assessee was rejected by the learned CIT(E). Aggrieved, the assessee has come up in appeal before this Tribunal.

5. Apropos to the grounds of appeal, learned counsel for the assessee submitted that notice issued by the learned CIT(E) was not received by the assessee. He contended that in the interest of principles of justice, an opportunity be given to the assessee for representing its case before the learned CIT(E).

6. Learned DR, on the other hand, opposed the submissions and submitted that the assessee did not file the requisite details, therefore, the learned CIT(E) was justified in rejecting the application for registration u/s 12A of the Act.

7. We have heard rival submissions and perused the material available on record. The only basis for rejection of the application by the learned CIT(E) was that the assessee could not attend the proceedings and did not furnish the requisite details. It is seen from the record that only two opportunities were given to the assessee. It is stated on behalf of the assessee that notices sent by learned CIT(E)

were not received by the assessee. Considering the totality of facts and in the interest of natural justice we are of the considered view that the assessee should be given an opportunity to represent its case. Therefore, impugned order passed by the learned CIT(E) is set aside and the application for registration u/s 12A of the Act is restored to the file of learned CIT(E) for decision afresh, of course, after affording adequate opportunity of being heard to the assessee. Appeal stands allowed for statistical purposes.

8. Now we take up ITA No. 1618/Del/2023 u/s 80G of the Act. The assessee has raised following grounds of appeal:

*“1. That the orders passed on 22.03.2023 vide Form 10AD (See rule 2C or 11AA or 17A) by the learned Commissioner of Income-tax (Exemptions), Chandigarh [hereinafter referred to as the 'CIT(E)'], has been arbitrary and unjust in denying the registration application for registration u/s 80G(5) of the Act under section 80G ex-party without give proper opportunity through proper mode of communication.*

*2. That the learned CIT(E), Chandigarh has erred both in law and on facts in rejecting application for seeking registration U/S 80G(5) of the Act filed by the appellant Charitable Trust, solely on the basis of absence of the requisite submissions of the appellant in response to the letter issued by Ld. CIT(E) while the fact is that such letter was uploaded by Ld. CIT(E) only on E-Filling portal without communicating through registered E-Mail, SMS on registered mobile and /or postal service which is gross violation of natural justice.*

*3. That in any view of the facts and circumstances of the case of the appellant Charitable Trust it is entitled for grant of registration U/S 80G(5) of the Act, which be kindly granted.*

4. *The Appellant craves the leave to add, amend, alter and/or delete any of the above grounds of appeal at/or before the time of hearing as the circumstances of the case may require or justify.”*

9. Facts, in brief, are that application filed by the assessee seeking registration u/s 80G of the Act was rejected by the learned CIT(E) on the ground that the assessee was not registered u/s 12AB of the Act. Aggrieved, the assessee is in appeal before this Tribunal.

10. We have heard rival submissions and perused the material available on record. The learned CIT(E) rejected the application for registration u/s 80G of the Act, inter alia, by observing as under:

*“2. In the present case, an application u/s 12AB was also filed on 07.10.2022, which was rejected on the basis of non-compliance vides DIN & Notice No. ITBA/EXM/F/EXM45/2022- 23/1050848295(1) dated 16.03.2023. The present application for approval u/s 80G(5), in absence of any registration under section 12AB or 10(23) /10(23C), doesn't meet the requirement for approval as mandated by section 80G(5) of the I.T. Act, 1961 and Rule 11AA of the I.T. Rules, 1962. Accordingly, the request for grant of approval u/s 80G cannot be decided on the merits of the case and, therefore, declined.”*

10.1 Apropos to the grounds the parties have adopted the same arguments as in ITA no. 1619/Del/2023. Considering the fact that the assessee was not granted adequate opportunity to subserve the principles of natural justice, we hereby set

aside the impugned order and restore the application for registration u/s 80G of the Act to the file of learned CIT(E) to decide the same afresh after affording adequate opportunity of being heard to the assessee. Appeal stands allowed for statistical purposes.

11. In the result appeals of the assessee in ITA nos. 1618/Del/2023 and 1619/Del/2023 stand allowed for statistical purposes only.

Order pronounced in open court on 17<sup>th</sup> October, 2023.

**Sd/-**  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**  
**\*MP\***

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**