

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH :G: DELHI)**

**BEFORE SHRI C.M. GARG, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA Nos. 1201 & 1202/Del/2023

Assessment Year: --

Sajjan Dahiya Shiksha Samiti, Vill:Matindu, Tehsil Kharkhoda, Sonapat PIN: 131001 (Hr.) (PAN:AAQAS5812F)	Vs.	CIT(Exemption), Chandigarh
(Appellant)		(Respondent)

Present for:

Appellant by : Ms. Supriya Mehta, CA
Respondent by : Shri H.K. Choudhary, CIT- DR

Date of Hearing : 14.09.2023
Date of Pronouncement : 22.09.2023

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

Both the appeals filed by the assessee is against the order of learned Commissioner of Income-tax(Exemption), Chandigarh, DIN & Notice No. ITBA/EXM/F/EXM45/2022-23/1049952577(1) dated 21.02.2023 against the order under Section 80G(5) of the Income-tax Act, 1961 (hereinafter referred to as the "Act") and DIN & Notice No. ITBA/EXM/F/EXM45/2022-23/1047758928(1) dated 01.12.2022 against the order under Section 12A(1)(ac)(ii) of the Act.

2. Assessee is these two appeals has contested action of learned Commissioner of Income-Tax(E) in ex parte rejecting the application for

registration under Section 12AB and 80-G of the Act by violating of principles of natural justice.

3. At the outset, learned counsel for the assessee pointed to the impugned order of learned Commissioner of Income-Tax(E) to demonstrate that it is an ex parte order. According to him, learned Commissioner of Income-Tax(E) has summarily rejected the applications of the assessee without giving any opportunity of hearing to the assessee to present its case. Learned counsel submitted that no notice of fixing the date of hearing was served on the assessee as stated by the learned Commissioner of Income-Tax(E) in his order, neither by way of email or through post. It is alleged that the notice for hearing was uploaded on the income-tax portal but assessee was not aware of such uploading of the notice fixing the date of hearing. Thus, there was effective service of notice on the assessee. To corroborate the contention, learned counsel for the assessee presented a print out of the screen shot from the income-tax portal wherein only an uploading has been done of the notice and no email has been sent as the columns for email are left blank.

4. Learned CIT DR when confronted with these submissions could not rebut the factual position.

5. We have heard the rival contention and perused the material placed before us. Admittedly, it is a fact that notices for fixing the

hearings have not been emailed to the assessee except for uploading them on the income-tax portal. Merely uploading of information of date of hearing on the income-tax portal is not an effective service of notice as contemplated under Section 282 of the Act. Accordingly, ex parte order passed by the learned Commissioner of Income-Tax(E) is not sustainable in the eyes of law. In the interest of justice and fair play, we set aside the impugned order in both the appeals with the direction to learned Commissioner of Income-Tax(E) to decide the application for registration made by the assessee afresh. Needless to say that assessee be given proper and effective opportunity of being heard and to make submissions in support of its claim. We also direct the learned Commissioner of Income-Tax(E) to serve notice of hearing on the assessee through physical mode as well as electronic mode. Accordingly, grounds taken by the assessee in both the appeals are allowed for statistical purposes.

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

Order is pronounced in the open court on 22.09.2023.

**Sd/-
(C.M. Garg)
Judicial Member**

**Sd/-
(Girish Agrawal)
Accountant Member**

Dated: 22nd September, 2023

Mohan Lal

Copy forwarded to:

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

By Order

Assistant Registrar
ITAT, Delhi Benches, New Delhi