

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.144 & 145/Ind/2023
(Assessment Years:)

World Diamond Foundation Rajgarh District Dhar	Vs.	CIT(E) Bhopal
(Appellant / Assessee)		(Revenue)
PAN: AAETT0045J		
Assessee by	Shri Apurva Mehta, AR	
Revenue by	Ms. Simran Bhullar, CIT-DR	
Date of Hearing	18.10.2023	
Date of Pronouncement	26.10.2023	

O R D E R

Per Vijay Pal Rao, JM:

These two appeals by the assessee are directed against the composite order dated 14.02.2023 of Commissioner of Income Tax(Exemption), rejecting the registration u/s 12AB and approval u/s 80G(5) of the Act. The assessee has raised following grounds of appeal:

U/s 12AB

“1. On the facts and in the circumstances of the case, the Ld. Commissioner of Income Tax (Exemption), Bhopal (hereinafter referred to as 'the Ld. CIT (E), Bhopal'] has erred in denying registration u/s. 12AB of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') without appreciating that the appellant trust is a charitable trust engaged in charitable activities in Village Rajgarh, District Dhar. Thus, the Order of Rejection u/s. 12AB of the Act dated 14.02.2023 is liable to be set aside.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(E), Bhopal has erred in denying registration to the appellant trust without providing proper opportunity of being heard and without considering the submission made by the appellant trust.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(E), Bhopal has erred in sending Notices to wrong Email ID and thus, no notices were received by the appellant trust. Thus, the proceedings for registration u/s. 12AB of the Act are liable to be set aside.

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(E), Bhopal has erred in rejecting application for registration u/s. 12AB of the Act vide Rejection Order dated 14.02.2023 itself, without considering the Email dated 14.02.2023 sent by the appellant trust to the Ld. CIT(E), Bhopal before passing of the Rejection Order. Thus, the Rejection Order u/s. 12AB(1)(b) of the Act is liable to be set aside.”

u/s 80G(5)

“1. On the facts and in the circumstances of the case, the Ld. Commissioner of Income Tax (Exemption), Bhopal (hereinafter referred to as "the Ld. CIT (E), Bhopal"] has erred in denying registration u/s. 80G of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') without appreciating that the appellant trust is a charitable trust engaged in charitable activities in Village Rajgarh, District Dhar. Thus, the Order of Rejection u/s. 80G of the Act dated 14.02.2023 is liable to be set aside.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(E), Bhopal has erred in denying registration to the appellant trust without providing proper opportunity of being heard and without considering the submission made by the appellant trust.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(E), Bhopal has erred in sending Notices to wrong Email ID and thus, no notices were received by the appellant trust. Thus, the proceedings for registration u/s. 80G of the Act are liable to be set aside.

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(E),Bhopal has erred in rejecting application for registration u/s. 80G of the Act vide Rejection Order dated 14.02.2023 itself, without considering the Email dated 14.02.2023 sent by the appellant trust to the Ld. CIT(E), Bhopal before passing of the Rejection Order. Thus, the Rejection Order u/s. 80G of the Act is liable to be set aside.”

2. The Ld. AR of the assessee has submitted that the applications of the assessee were rejected by CIT(E) for want of the requisite details and supporting documents for the activities carried out by the assessee. He has pointed out that the assessee filed an application for adjournment but the CIT(E) did not grant adjournment for hearing fixed on 13.02.2023 and passed impugned order on very next day 14.02.2023. Thus, Ld. AR has submitted that the impugned composite order passed by the CIT(E) is in violation of principles of natural justice as the assessee was not granted opportunity to furnish the necessary details as well as supporting records. He has pleaded that the composite order may be set aside and matter may be remanded to the record of the CIT(E) for re-consideration of the applications of the assessee after giving one more opportunity of hearing to the assessee to furnish the relevant details and documents.

3. On the other hand, Ld. DR has submitted that the CIT(E) has given four opportunities to the assessee to furnish necessary details, information and documents to support the nature and details of various incomes and expenses as well as the activities carried out by the assessee. Therefore, despite sufficient opportunity granted by the CIT(E) the assessee did not comply with the notices issued by the CIT(E). She has relied upon the impugned order of the CIT(E)

4. We have considered the rival submissions and carefully gone through the order of the CIT(E), whereby the applications of the assessee for registration u/s 12AB and approval u/s 80G(5) have been rejected for want of necessary details, information and supporting documentary evidences. The CIT(E) has given details of four notices against which the assessee has replied to the notice dated 05.01.2023 for the hearing fixed on 12.01.2023 and then also filed a request for adjournment in response to notice dated 01.02.2023 for hearing fixed on 13.02.2023. The CIT(E) did not entertain the adjournment request of the assessee and passed the impugned composite order on 14.02.2023. It appears that the case was not a time barring case in the month of February and the CIT(E) could have given one more opportunity to the assessee for submitting necessary

details and documents as called for by her. The CIT(E) has not given any finding regarding the nature of object and genuineness of the activities of the assessee trust but the application have been rejected for want of relevant details and documentary evidence. Therefore, in the facts and circumstances of the case and in the interest of justice we set aside the impugned order of the CIT(E) and remanded the matter in respect of the registration u/s 12AB and approval u/s 80G(5) to the record of the CIT(E) for reconsideration of the applications of the assessee for registration u/s 12AB and approval u/s 80G(5) of the Act after giving an appropriate opportunity of hearing to the assessee.

5. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 26 .10.2023

Sd/-

(B.M. BIYANI)
Accountant Member

Indore, 26 .10.2023

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

(VIJAY PAL RAO)
Judicial Member

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore