

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 2583/DEL/2022
Assessment Year: 2022-23**

Sparda Welfare Trust, 52/24, Karol Bagh, Ramjas Road, New Delhi-110005. PAN- AAPTS6715B	<u>Vs</u>	Commissioner of Income-tax (Exemption), Delhi.
APPELLANT		RESPONDENT
Assessee represented by		Sh. Rohit Tiwari, Adv.; Ms. Shivani, Adv.; Ms. Tanya, Adv.; and Sh. Jaund Kr. Jaiswal, Adv.
Department represented by		Sh. H.K. Choudhary, CIT(DR)
Date of hearing		17.01.2024
Date of pronouncement		23.01.2024

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order dated 23.09.2022, passed by the learned Commissioner of Income-tax (Exemptions), [“CIT(E)” in short], rejecting assessee’s application for registration u/s 12A(1)(ac)(iii) of the Income-tax Act, 1961 (the “Act”). The assessee has raised following grounds of appeal:

“1. That the order U/S 12A(1)(ac) (ii) of the Act dated 23rd September, 2022 are without jurisdiction and thus liable to be set aside.

2. That the learned Commissioner of Income-tax (Exemption), [hereinafter referred to as the 'CIT(E)'], Delhi has been arbitrary and unjust in denying the registration U/S 12A(1)(ac)(iii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') to the appellant charitable Trust.

3. That the learned CIT(E), Delhi has erred both in law and on facts in rejecting application for seeking registration U/S 12A(1)(ac)(iii) of the Act filed by the appellant charitable Trust, solely on the basis of her wrongly drawn unilateral inferences and unwarranted observations, which are contrary to the facts of appellant's case and even to the material/evidences placed on records.

4. That while arbitrarily rejecting the application for seeking registration U/S 12A(1)(ac)(iii) of the Act filed by the applicant, the learned CIT(E) Delhi has completely brushed aside and disregarded that in the light of material/evidences placed on records it was beyond doubt evident that from last number of years, the appellant charitable Trust was genuinely conducting the charitable activities strictly in accordance with its objects and it had duly complied with all the necessary requirements of any other law, which were material for the purpose of achieving its objects and therefore appellant charitable Trust deserves for grant of registration U/S 12A(1)(ac)(iii) of the Act

5. That above grounds of appeal are mutually exclusive and without prejudice to each other.

6. The appellant craves leave to add, alter, amend and/or modify any of the ground ground(s) during or before the hearing of the appeal.”

2. Facts, in brief, are that assessee filed an application in Form No. 10AB, seeking registration u/s 12A(1)(ac)(iii) of the Act. The said application was rejected by the learned CIT(E) on the ground that the assessee failed to file details/information required by the learned CIT(E). Aggrieved against this, the assessee is in appeal before this Tribunal.

3. At the hearing learned counsel for the assessee filed an application under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963, seeking permission to admit documents as mentioned in the list annexed to the application as additional evidence. He submitted that documents sought to be admitted as additional evidence could not be filed during proceedings before learned CIT(E) as the same were not traceable. He submitted that the assessee was prevented by sufficient cause for not producing these documents before the learned CIT(E) and since these documents go to the root of the subject matter of the appeal, the same may be admitted and bring on record for effective adjudication of the appeal. He submitted that in the interest of substantial justice an opportunity may be given to the assessee.

4. Learned CIT (DR) opposed the submissions made on behalf of the assessee.

5. After hearing learned representatives of the parties we are of the considered view that assessee has been able to explain that the documents now sought to be admitted could not be filed before the learned CIT(E) being not traceable and that these documents go to the root of the matter. In our considered view the law mandates a fair and meaningful opportunity to the taxpayer for representing its case and submitting true and correct facts before the concerned authority. Thereafter, the authority concerned after verifying the correctness of claim of the assessee should decide the matter. Accordingly, to sub-serve the interest of natural justice,

the documents as mentioned in the list annexed to the application, are admitted and taken on record. The matter is restored to the file of the learned CIT(E) to decide the application for registration u/s 12A(1)(ac)(iii) of the Act afresh, after giving adequate opportunity of being heard to the assessee and the documents as admitted above. We order accordingly.

6. Assessee's appeal stands allowed for statistical purposes.

Order pronounced in open court on 23rd January, 2024.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI