

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 220/CHD/2023

निर्धारण वर्ष / Assessment Year : 2023-24

Vidya Jyoti Charitable Trust, C/o Madhav Stelco Limited, Talwara Road Sirhind Side, Mandi Gobindgrh	Vs. बनाम	The CIT (Exemptions), Chandigarh
स्थायी लेखा सं./PAN No. AADTV5297R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(HYBRID HEARING)

निर्धारिती की ओर से/Assessee by : Shri Ashok Goyal, Advocate

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT, DR

सुनवाई की तारीख/Date of Hearing : 28.03.2024

उद्घोषणा की तारीख/Date of Pronouncement : 02.04.2024

आदेश/Order

Per A.D. Jain, Vice President:

This is assessee's appeal against the order of the Id. CIT (Exemptions), Chandigarh, dated 13.10.2022, for the Assessment Year 2023-24, raising the following grounds:

1. The learned CIT (Exemption) Chandigarh has erred in rejecting the approval u/s 12AB without affording any reasonable opportunity of being heard as required under law.

2. The learned CIT (Exemption) Chandigarh, has erred in rejecting the approval u/s 12AB on the basis of absence of requisites submission in response to questionnaire dt 02.09.2022, letter dt 30.09.2022 and letter dt 07.10.2022 issued when no such questionnaire or letters was ever serviced as per law, hence the rejection is arbitrary & unjustified

3. That the order passed u/s 12AB was also not serviced as per law and only on 30.03.2023, at the time of visit to CPC portal the same was noticed and deemed service is on 30.03.2023.

2. At the outset, it has been submitted by the ld. Counsel for the Assessee that the sole grievance of the Assessee is that the ld. CIT(E) has erred in passing the impugned ex-parte order, dated 13.10.2022 without affording reasonable opportunity of hearing to the Assessee, which is against the principles of natural justice; that none of the notices of hearing and letters as mentioned in the impugned order were served upon the Assessee; and that the notices of hearing were uploaded only on the portal and no notice was sent either through registered post or e-mail; that the order passed u/s 12AB was also not serviced as per law and that only on 30.3.2023, at the time of the visit to CPC portal the deemed service was reflected on 30.3.2023. It has further been submitted that the impugned ex-parte order, passed

by the ld. CIT(E), is totally unfair, arbitrary and unjustified. It is submitted that the Assessee has a fair case on merits and, therefore, prayed that keeping in view the principles of natural justice, the Assessee may be given a reasonable opportunity of hearing of the appeal before the ld. Commissioner (Exemptions) and the appeal may be directed to be decided on merits.

3. The ld. DR, on the other hand, relied on the orders of the lower authorities.

4. Heard. We have gone through the order of the ld. CIT (E) and find that the ld. CIT(E) has rejected the application of the Assessee for approval ex-parte and disposed of the same as being deficient in factual evidences in the absence of the requisite submissions and appearance of the Assessee at the scheduled hearings, without considering the material available on record, and also without giving due opportunity of hearing to the Assessee. As such, an opportunity of hearing requires to be given to the Assessee to represent his case fully before the ld. CIT(E). Even otherwise, it is trite [‘S. Velu Palandar Vs. DCIT’ 83 ITR 683 (Mad.)] and incumbent on the authority to decide an appeal on merit in accordance with the principles of natural justice.

5. The matter now stands covered by the decision of the Hon'ble jurisdictional High Court in the case of Munjal BSU Centre of Innovation and Entrepreneurship, Ludhiana through its authorized signatory Shri Bharat Goel Vs. Commissioner of Income Tax (Exemptions), Chandigarh in CWP-21028-2023(O&M), wherein, vide order dated 04.03.2024', their Lordships have held that the provisions of Section 282(1) of the Income Tax Act and Rule 127(1) of the Income Tax Rules, 1962, envisage that it is essential that before any action is taken, a communication of the notice must be in terms of these provisions; that these provisions do not make mention of communication to be "deemed" by placing the notice on the e-portal of the Department; that a pragmatic view has always to be adopted in these circumstances; that an individual or a company is not expected to keep the e-portal of the Department open all the times so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms, etc.; and that the principles of natural justice are inherent in the Income Tax provisions and the same are required to be necessarily followed.

6. The Id. D.R., though, has placed reliance on the orders of the authorities below, she has no objection if the matter is remanded to the CIT(E) for adjudication afresh.

7. In view of the above, in the interest of justice, the matter is remitted to the file of the CIT(E), to be decided afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(E). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

8. In the result, for statistical purposes, the appeal is treated as allowed, for statistical purposes.

Order pronounced on 02.04 .2024

Sd/-

Sd/-

(VIKRAM SINGH YADAV)
Accountant Member

(A.D. JAIN)
Vice President

“आर.के.”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar