

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G" DELHI**

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

I.T.A. No.3367 & 3368/DEL/2023

<b>Shri Atma Vallabh Jain Federation of Educational Institutions</b> Jain Mandir Complex GT Karnal Road, Delhi.	Vs.	<b>Commissioner of Income Tax (Exemptions)</b> Civic Centre Delhi
TAN/PAN: AAALS8858E		
(Appellant)		(Respondent)

Appellant by:	Shri M.K. Madan, Chartered Accountant		
Respondent by:	Shri Dharm Veer Singh, CIT-DR		
Date of hearing:	13	05	2024
Date of pronouncement:	17	05	2024

**ORDER**

**PER PRADIP KUMAR KEDIA-AM:**

The captioned appeal in ITA No.3367/Del/2023 has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Exemption), Delhi dated 26.09.2023 passed under Section 12AB(1)(b)(ii)(B) of the Income Tax Act, 1961 (the Act).

1.1 The captioned appeal in ITA No.3368/Del/2023 has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Exemption), Delhi dated 26.09.2023 passed under Section 80G of the Income Tax Act, 1961 (the Act).

**ITA No.3367/Del/2023**

2. As per the grounds of appeal, the assessee has sought remedy from the Tribunal against the *ex-parte* order passed by the CIT(E) denying registration sought in terms of application made under Section 12A(1)(ac)(iii) of the Act.

3. When the matter was called for hearing, the Id. counsel for the assessee pointed out that the CIT(E) has rejected the application seeking final registration of the assessee under Section 12A(1)(ac)(iii) *ex-parte* on the grounds of non-compliance of statutory notices without giving sufficient opportunity. The Id. counsel submitted that the competent authority has failed to appreciate that the assessee has filed application within prescribed time limit and fulfilled all the conditions provided under the Income Tax Act and thus eligible for final registration. The Id. counsel thus urged for suitable relief.

4. The Id. CIT-DR for the Revenue, on the other hand, contended that several notices were served upon the assessee and only part reply was received in compliances thereof. The assessee has failed to discharge the onus to support the genuineness of the activities carried out. Hence, where the conditions laid down under Section 12AB of the Act could not be verified, the action of the CIT(E) cannot be faulted in rejecting the application seeking registration under Section 12A(1)(ac)(iii) of the Act.

5. We have carefully considered the impugned order passed by the CIT(E) and the respective submissions made by both sides.

6. The assessee contends that it has duly complied in response to notice dated 28.07.2023 and filed certain details as admitted by the CIT(E) himself. Subsequent notices were not received via e-mail or through post. The notice earlier received dated 28.07.2023 was received by post and substantially complied with. The Assessee Institution has little understanding to browse the income tax e-portal on regular basis to comply with notices purportedly served on e-portal. The non-compliance therefore could not be seen as deliberate act of defiance of notices.

7. On perusal of the order passed by the CIT(E), it is noticed that

the impugned order itself acknowledges the fact that the assessee has filed certain replies *albeit* incomplete in some aspects. Thus, the assessee do not appear to be grossly negligent in furnishing the information. Having regard to advent of digital eco-system and compliances in virtual mode recently introduced, it is common knowledge that certain practical difficulties do arise to less informed tax payers. Having regard to the relevant factors such as, the assessee engaged in charitable work for benefit of society; the trustees are doing honorary work and having regard to the fact that partial compliances were carried out, in our considered view it is only desirable that one more opportunity is granted to the assessee to satisfy the designated authority, i.e., CIT(E), for its rightful entitlement for registration in accordance with law. It will promote fair play and will accord with principles of natural justice engrained by the legislature in unequivocal terms in Section 12AB of the Act.

8. Consequently, we set aside the order of the CIT(E) dated 26.09.2023 and restore the issue back to the file of the designated authority for *de novo* consideration of all aspects as may be considered necessary for the purposes of registration in accordance with law. Needless to say, application of the Assessee shall be disposed of by the designated authority after giving proper opportunity to the applicant-assessee. The assessee is also cautioned to dutifully attend the *de novo* proceedings before the designated authority without any demur. All points are kept upon for reconsideration of the designated authority without any fetters. It shall be open to the assessee to support the application of registration afresh before the designated authority with such documentary evidences and explanations as may be considered expedient.

9. In the result, the appeal of the assessee in ITA No.3367/Del/2023 is allowed for statistical purposes.

**ITA No.3368/Del/2023**

10. The appeal in ITA No.3368/Del/2023 concerns rejection of application in Form 10AB in terms made under clause (iii) of First Proviso to Section 80G(5) of the Act for permanent approval under Section 80G of the Act.

11. The Assessee submits that Assessee filed application dated 19.01.2023 in Form 10A for provisional Registration under Section 80G(5)(iv) which was approved vide order dated 26.01.2023 in Form 10AC prescribed for this purpose. Thereafter, application was made in Form 10AB dated 24.03.2023 for regular approval in terms of Section 80G(5)(iii) of the Act. The assessee contends that application for regular approval was placed for consideration of the designated authority in terms of clause (iii) of first proviso to Section 80G(5) of the Act. On receipt of application, the CIT(E) Delhi called for certain documents or information communicated through e-portal seeking justification of the application for approval. The ld. counsel contends on the similar line that the assessee has already made substantial compliances of the notice dated 28.07.2023 and subsequent notices have not been communicated by post. The assessee similarly contends that due to constraint of resources and limited knowledge about the digital eco-system, the notices purportedly served on e-mail could not be accessed, resulting in non-compliances and consequent *ex-parte* order.

12. The plea of the Assessee is identical to plea in ITA No.3367/Del/2023. For the similarity of reasons noted in ITA No.3367/Del/2023 (supra), we consider it just and proper to set aside the impugned order of CIT(E) dated 26.09.2023 and restore the issue back to the file of the designated authority for *de novo* consideration of all aspects of application for the purposes of approval under Section

80G of the Act in accordance with law. Needless to say, application for approval under 80G shall be disposed of by the designated authority after giving proper opportunity to the applicant-assessee. The assessee is also cautioned to dutifully attend the *de novo* proceedings before the designated authority without any demur. All points are kept upon for reconsideration of the designated authority without any fetters. It shall be open to the assessee to support the application for final approval afresh before the designated authority with such documentary evidences and explanations as may be considered expedient.

13. Consequently, the appeal of the assessee in ITA No.3368/Del/2023 is allowed for statistical purposes.

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

**Order pronounced in the open Court on 17/05/2024**

**Sd/-**

**[KUL BHARAT]  
JUDICIAL MEMBER**

**Sd/-**

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**

DATED: **/05/2024**

*Prabhat*