

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH**  
**BENCH 'A' CHANDIGARH**

**BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND**  
**SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA Nos. 567 & 568/CHD/2023**

निर्धारण वर्ष / Assessment Year. : 2022-23

M/s Aggarsain Public Educational Society, Near UBC Bank, Samana, Patiala.	Vs	The CIT (Exemptions), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AACAA0363P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Vibhor Garg, C.A.

राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT-DR

तारीख/Date of Hearing : 13.05.2024

उद्घोषणा की तारीख/Date of Pronouncement : 16.05.2024

**VIRTUAL HEARAING**

**आदेश/ORDER**

**PER A.D.JAIN, VICE PRESIDENT**

These are assessee's appeals for assessment year 2022-23 against the separate orders dated 27.09.2022 and 18.01.2023 respectively passed by the ld. Commissioner of Income Tax (Exemptions) Chandigarh [in short 'the CIT(E)'].

2. As the issues, facts and circumstances are identical in both these appeals, therefore, these were heard together

and are being disposed of by a common order for the sake of brevity. The facts and issues are taken from ITA No.567/CHD/2023. In this appeal, the assessee has raised the following grounds of appeal:

1. *That the Ld. CIT(E) has erred in rejecting the registration u/s 80G(5) both on facts and law.*
2. *That the order for rejection of registration u/s 80G(5) is an ex-parte order passed without sending the notices for hearing on e-mail or physically without allowing opportunity of being heard.*
3. *That the Ld. CIT(E) has erred in passing a rejection order u/s 80G(5) 'in a mechanical manner without application of mind in lieu of application filed by appellant for seeking final registration u/s 12AB (application no. CIT Exemptions Chandigarh /2022-23/12AA/10871)*

3. The facts of the case are that the assessee filed application for approval of the registration of the Trust under clause (iii) of first provision to Section 80G(5) of the Income Tax Act, 1961 on 29.03.2022. A questionnaire was issued to the assessee electronically by the ld. CIT (E) on 15.09.2022 requesting the assessee to furnish relevant supporting documents, details and evidence etc., through e-proceedings on e-filing portal by 20.09.2022. On the stipulated date, neither any submissions/evidence etc. was filed nor any request for adjournment was made through any channel. Therefore, another opportunity was provided on 21.09.2022 and the case was fixed for

23.09.2022. On that date also, neither any online/offline reply was submitted nor any request for adjournment was received. As a final opportunity, the case was fixed for 26.09.2022, but, on that date also, position remained the same. Accordingly, the ld. CIT(E) rejected the application filed by the assessee considering it to be deficient in factual evidences and on account of non-appearance on the date of hearings. The relevant part of the order of the ld. CIT (E) is as under :

*“In view of the above discussions, the present application of the assessee filed in Form 10AB under clause (iii) of first proviso to section 80G(5) of the Act is disposed of as being deficient in factual evidences in the absence of the requisite submissions and appearances of the assessee at the scheduled hearings. This is despite the granting of at least three opportunities as above. It is pertinent to mention here that it is mandated by the provisions of under clause (iii) of first proviso to section 80G(5) of the Act that where the trust or institution has been provisionally approval u/s 80G it has to make an application for approval u/s 80G within six months of commencement of activities. In the absence of any submission from the applicant it is not possible to ascertain the objects and activities carried out by the applicant. Accordingly the application filed by the applicant for approval u/s 80G of the Act is hereby rejected, which rejection and consequent lack of registration will apply from this F.Y. 2022-23 onwards and also supersede any approval granted u/s 80G of the Act by any authority at any earlier time.*

4. Aggrieved, the assessee is in appeal before this Tribunal.

5. We have heard the parties and have perused the material on record. On perusal of the record, it is noticed that the impugned order passed by the ld. CIT (E) is an ex-parte order. The notices were issued electronically to the assessee. The ld. Counsel for the assessee has contended that no notice for hearing on e-mail or physically was ever served on the assessee. Further, there is nothing on record to show that the assessee was issued proper notice of hearing. 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 Goyal Vs Commissioner of Income Tax (E), 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. Considering all the facts and circumstances, the impugned order of the Id.CIT(E) is set aside and the matter is restored to the file of the CIT(E) to decide the application of the assessee for final approval of registration on merits after giving adequate opportunity to the assessee to present its case. The assessee, no doubt, shall cooperate in the fresh proceedings before the Id. CIT (E).

7. The appeal of the assessee is treated as allowed for statistical purposes.

8. As the issues, facts and circumstances in ITA 568/CHD/2023 are identical to ITA 567/CHD/2023, therefore, our findings given in ITA 567/CHD/2023 would

apply mutatis-mutandis to ITA 568/CHD/2023 also. Accordingly, ITA 568/CHD/2022 is also allowed for statistical purposes.

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

Order pronounced on 16.05.2024.

**Sd/-**

**(KRINWANT SAHAY)  
ACCOUNTANT MEMBER**

**Sd/-**

**(A.D.JAIN )  
VICE PRESIDENT**

“Poonam”

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