

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

ITA No.1327/Del/2024

Vidya Devi Charitable Trust 938/3 Nai Walan Near Kalkadas Chowk, Karol Bagh Delhi	Vs.	CIT(E) Delhi
TAN/PAN: AADTV5681K		
(Appellant)		(Respondent)

Applicant by:	Shri Baldev Raj, Chartered Accountant Shri Manish Upneja, Chartered Accountant		
Respondent by:	Ms. Sapna Bhatia, CIT-DR		
Date of hearing:	08	07	2024
Date of pronouncement:	25	07	2024

ORDER

PER PRADIP KUMAR KEDIA - A.M.:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Exemption), Delhi dated 01.02.2024 passed under Section 12AB(1)(b)(ii)(B) of the Income Tax Act, 1961 (the Act).

2. The grounds of appeal raised by the assessee read as under:

"1. That on the facts and in law, the order dated 01.02.2024 passed by Ld. CIT(EXEMPTION), Delhi [hereinafter for the sake of brevity referred to as "The Ld. CIT(E)"] u/s 12AB(1)(b)(ii) (B) of the Income Tax Act, 1961 [hereinafter for the sake of brevity referred to as "The Act"] is bad in law and void ab initio.

2. That on the facts and in circumstances of the case, the Ld. CIT(E) erred in not granting the registration u/s.12AB(1)(b)(ii)(B) of the Act."

3. When the matter was called for hearing, the ld. counsel for the

Assessee submitted that Assessee is a Trust established by Trust Deed dated 15.10.2013 for the purposes of providing education and medical facilities to the needy. The Assessee-Trust received provisional registration under Section 12A(1)(ac)(vi) of the Act on 20.01.2022 in Form 10AC from CIT(E) Delhi for the period from A.Y. 2022-23 to A.Y. 2024-25. Thereafter, the assessee filed application dated 29.09.2023 in Form 10AB for regular registration under Section 12A(1)(ac)(iii) of the Act. The Id. counsel pointed out that the competent authority, i.e., CIT(E) Delhi passed an *ex-parte* order rejecting the application for regular registration without following the standard operating procedure to issue notices. The assessee did not receive any alert or mail or any communication about notice/questionnaire purportedly issued by the CIT(E). As per the impugned order rejecting registration, the CIT(E) claims to have issued questionnaire electronically on 20.10.2023 and asked to furnish certain documents/details in respect of application for registration of Trust which was followed by reminders. The assessee did not receive any of such notices and the rejection order came to the notice of the assessee on checking the status of the application on the Income Tax Portal. The Id. counsel thus submitted that the regular registration has been rejected *ex-parte* on the grounds of non compliances of statutory notices without giving sufficient opportunity and without bringing such notices to the knowledge of the assessee-Trust. The Id. counsel thus urged for suitable relief.

4. The CIT-DR for the Revenue, on the other hand, contended that sufficient notices were served upon the assessee and the assessee has failed to discharge the onus to support the genuineness of activities carried out while seeking regular registration. 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 for

rejecting the application seeking registration under Section 12A(1)(ac)(iii) of the Act.

5. We have considered the rivals submissions and perused the impugned order passed under Section 12AB(1)(b)(ii)(B) of the Act in Form 10AD towards rejection of application for regular registration. The assessee contends that the notices and questionnaire issued by the CIT(A) were not served on the assessee resulting in *ex parte* order by the CIT(E).

6. On perusal of the impugned order under Section 12AB, it is observed that nowhere it is claimed that the notices were actually served on the assessee. With the advent digital eco-system and the compliances required in virtual mode recently introduced, it is common knowledge that certain practical difficulties do arise to certain section of uninformed tax payers. Having regard to the fact that assessee is engaged in charitable work and the trustees are doing honorary work and having regard to the fact that the impugned order do not provide the factum towards service of notice, in our considered view, it is only desirable that one more opportunity be 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 also accord with principles of natural justice inured by the legislature in unequivocal terms in Section 12AB of the Act.

7. Consequently, we set aside the impugned order of CIT(E) dated 01.02.2024 and restore the matter back to the file of the designated authority for consideration of application for registration *denovo* after taking into account all aspects in relation to the registration in accordance with law.

7. Needless to say, application shall be disposed of by the designated authority after giving proper opportunity to the assessee. The assessee is also cautioned to dutifully attend the *denovo* proceedings before the designated authority without any demur. All the points are kept upon for consideration of the designated authority without any fetter. It shall be open to the assessee support the application for registration afresh before the designated authority with all documentary evidences as it may consider expedient.

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

Order pronounced in the open Court on 25th July, 2024.

Sd/-
[SUDHIR PAREEK]
JUDICIAL MEMBER

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER

DATED: 25th July, 2024
Prabhat

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar