

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 No. 90/CHD/2024

निर्धारण वर्ष / Assessment Year : 2023-24

Emerging Medicine Forum, Chandigarh.	बनाम VS	The CIT(Exemptions), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AAATE6926F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate

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

तारीख/Date of Hearing : 05.08.2024

उदघोषणा की तारीख/Date of Pronouncement : 05.08.2024

PHYSICAL HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2023-24 against the order dated 03.01.2024 passed by the ld. CIT(Exemptions) Chandigarh. The following grounds have been taken :

“1. That the Ld. Commissioner of Income Tax(Exemptions) has erred in law in passing an ex parte order rejecting the registration sought under section 12AB which is against the Principals of Natural Justice and as such the order passed is arbitrary and unjustified.

2. That the Ld. Commissioner of Income Tax(Exemptions) has erred in rejecting the registration ex-parte only on the basis of

alleged non-compliance on part of the assessee when in fact no email/notice was received by the assessee to check the portal and as such the order passed is arbitrary and unjustified.

3. *Without prejudice to the above, the Ld. Commissioner of Income Tax (Exemptions) has erred in law as well as on facts in rejecting registration under section 12AB of the Act which is arbitrary & unjustified.*

4. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

5. *That the order of the Ld. Commissioner of Income Tax is erroneous, arbitrary, opposed to law and facts of the case and is thus, untenable.”*

2. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned order of the ld.CIT(E) to submit that the same is an ex-parte order. He has submitted that the ld.CIT(E) has summarily rejected the application of the assessee, without giving any opportunity of hearing to the assessee to present its case. He has submitted that no notice of date of hearing was served by the ld.CIT(E), either through physical mode or through e-mail etc. That the notice of date of hearing was allegedly uploaded on ITBA Portal and the assessee was not aware of uploading of any such notice regarding date of hearing.

4. The ld. DR could not rebut the aforesaid factual position.

5. We have heard the parties and have perused the material on record. It is found that various notices fixing the date of hearing

were issued through ITBA Portal. The ld. Counsel for the assessee stated that no such notice of hearing was ever received. Merely uploading of information about the date of hearing on the Income Tax Portal is not an effective service of notice. 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. Accordingly, the impugned order of the Id.CIT(E) is, hereby set aside with a direction to the Id.CIT(E) to decide the appeal of the assessee afresh after giving proper and adequate opportunity to the assessee to present its case. The assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(E).

6. The appeal of the assessee is allowed for statistical purposes.

Order pronounced on 05th August,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