

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'E': NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**AND**

**SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.1662/Del/2024  
[Assessment Year: 2022-23]**

Manjit Kaur Memorial Premier Institute of Education, 836, Sector 14, Gurgaon, Haryana-122001	Vs	CIT Exemptions, Chandigarh
<b>PAN-AAAAM7411J</b>		
Assessee		Revenue

Assessee by	Sh. Pradeep Dang, CA
Revenue by	Sh. Koushlander Tiwari, CIT-DR

<b>Date of Hearing</b>	<b>12.08.2024</b>
<b>Date of Pronouncement</b>	<b>12.08.2024</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the assessee is directed against the order of Ld. CIT(Exemption), Chandigarh, dated 16.03.2023 pertaining to Assessment Year 2022-23.

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

*“1. That the order passed by Ld. CIT (E) is bad in law and on the facts of the case.*

*2. That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax was not justified in rejecting the grant of ITBA/EXM/F/EXM45/2022-23/1050849133(1) registration u/s 12A of the Income Tax Act, 1961;*

*3. That the provisions of section 282(1) and rule 127(1) of the Income Tax Rules, 1962 provides for a method and manner of service of notice and orders not complied;*

*4. That the provisions do not mention of communication to be 'presumed' by placing notice on the e-portal. A pragmatic view has to*

*be adopted always in these circumstances. An individual or a Company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income tax provisions and the same are required to be necessarily followed;*

*5. That the Honourable CIT (EXEMPTION) had issued the order of rejection of application of the registration under Form no. 104D dated 16-03-23 rejecting the application without providing a valid and reasonable opportunity to the applicant of being heard. As the rejection order are also not communicated to the applicant on the registered e-mail address of the assessee, or mobile or physical address and only posted on e-proceeding section of the e-portal. So the appellant has never got the valid opportunity of being heard and providing the information sought.*

*6. Further, as per the provisions of Section 12A4 the Honorable CIT (EXEMPTION) before granting registration/refusing registration, has to satisfy himself about the objects of the trusts / institution and also has to satisfy that the activities of the trust or institution are genuine. Further, if CIT is not satisfied with the genuineness of the activities or objects of the trust, then before refusing to register under this section, he has to give reasonable opportunity to the assessee of being heard, which the Commissioner has not provided. For one of the recent event with Singer machine on, Assessee required 12A certificate before applying Section 11, then it learnt that rejection has been passed."*

*6. In view of the above, it is essential that before any action is taken, a communication of the notice must be in terms of the provisions as enumerated here in above. The provisions do not mention of communication to be "presumed" by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a Company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income tax provisions and the same are required to be necessarily followed;*

*Petitioner Referred following cases in support of their claim*

*a. [2024] 160 taxmann.com 629 (Punjab & Haryana)  
High Court of Punjab and Haryana*

*Munjal BCU Centre of Innovation and Entrepreneurship vs  
Commissioner of Income-tax (Exemptions)*

*Sanjeev Prakash Sharma and Mrs. Suddpeti Sharma JJ.  
CWP No.21028 of 2023 (OAMP;M) MARCH 4, 2024*

2. The assessee in this appeal has contested the action of the Ld. CIT(Exemption), in rejecting the application of the assessee for registration u/s 12AB of the Act vide order dated 16.03.2023.

2.1. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned order of the id. CIT(E) to submit that the same is an ex-parte order. He 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 submitted that no notice of date of hearing was served by the Ld. CIT(E), either through physical mode or through e-mail That the notice of date of hearing vide notice dated 22.11.2022, 23.02.2023 and 06.032023 was uploaded on the e-portal of the Department and the assessee was not aware of uploading of any such notice regarding date of hearing. It was submitted that since the notices were not served on the registered e-mail of the assessee or mobile or in its physical address and therefore, the assessee never got the valid opportunity of being heard and providing the information sought. He, therefore, submitted that the assessee be allowed to file its reply in the proceedings u/s 12A(1)(ac)(iii) and therefore, order dated 16.03.2023 of the may be set-aside and after considering the submission of the assessee, the CIT(Exemption) may pass a fresh order thereafter.

2.2. The ld. DR relied upon the order of the Ld. CIT(Exemption).

3. We have considered the rival submission and perused the material available on record. In this case, the assessee could not represent its case before the ld. CIT(E) for the reasons as stated above. Considering the

fact that the notices were uploaded only on the e-filing portal of the Department, we find that the explanation of the assessee in not being able to represent its case before the ld. CIT(E) as reasonable. We, therefore, set aside the order dated 16.03.2023 of the ld.CIT(E) and direct him to decide the application of the assessee afresh after giving proper and adequate opportunity to the assessee to present its case.

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

Order pronounced in the open court on 12<sup>th</sup> August, 2024.

**Sd/-**  
**[KUL BHARAT]**  
**JUDICIAL MEMBER**

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

**Dated** 12.08.2024.

*SJK*

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi,