

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.2184/DEL/2024**

Baba Sheoram Giri Shanti Giri Gaushala, VPO Khedar, Tehsil Barwala, District-Hisar, Haryana-125121	Vs	CIT (Exemptions), Room No.1, 5 <sup>th</sup> Floor, C.R. Building, Himalaya Marg, Sector-17-E, Chandigarh-160017
<b>PAN-AAHAB3024B</b>		
Assessee		Revenue

Assessee by	Shri Rajesh Kumar, Adv. & Shri Rajesh Goyal, Adv.
Revenue by	Shri Sanjay Sharma, Sr.DR

<b>Date of Hearing</b>	<b>03.09.2024</b>
<b>Date of Pronouncement</b>	<b>18.10.2024</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal is against the order dated 21/03/2024 of the CIT(Exemptions), Chandigarh, rejecting the application for registration under section 12AB of the Act.

2. The grounds of appeal are as under:-

***Opportunity of being heard not provided***

- The Honorable CIT (Exemptions) Chandigarh made his/her own imaginary assumptions which were not related in any way to the real and factual position. The Honorable CIT (Exemptions) Chandigarh has directly rejected the application of conversion of registration under section 12A (1) from provisional to final one mentioning his/her said imaginary assumptions as grounds of rejection. The order of Honorable CIT (Exemptions), Chandigarh is*

*bad in law, as no opportunity of being heard was provided to the assessee society before passing the said impugned order.*

**Running of Business Activity Not Prohibited under Income Tax Act**

2. *The ground for rejection has been mentioned in order that our society is running business activity and earning profits therefrom. While running of business activities by a charitable organization are permitted under Income Tax Act subject to fulfillment of certain conditions, which have been duly met out by our society. But The Honorable CIT (Exemptions) Chandigarh didn't consider this fact and directly rejected the application without providing the opportunity of being heard in this regard.*

**Reservation of Rights to make any Change in Grounds of Appeal**

3. *That the appellant craves leave of The Honorable Income Tax Appellant Tribunal, to add, alter, modify, substitute, delete any grounds of appeal at any stage of the proceedings before The Honorable Income Tax Appellant Tribunal.*

3. At the outset, the Ld.AR submitted that the said rejection order of the Ld. CIT(Exemption) due to wrong appreciation of facts and not allowing opportunity of being heard to the assessee before passing the impugned order. The relevant extracts of the order of the CIT(Exemptions) in para 5 and 6 are reproduced as under:

*On perusal of financials for year 2021-22, it has been observed that the applicant has generated the huge surplus, detail of which is as under:-*

FY	Total Receipt	Rakhi Charges Receipts	Loading	Excess Income expenditure	Percentage of loading charges receipts over of Rakhi	Percentage of surplus
2022-23	3,25,26,255	2,83,78,785		1,41,43,811	87.24	43.48
2021-22	2,74,04,549	2,55,49,250		1,50,70,471	93.22	54.99
2020-21	1,35,89,984	97,95,550		65,19,692	72.08	47.97

*5.1 As per the Object 'a', the Society has to produce to Nandis (Bulls) for all useful breeds. Further, Object 'c' the Society also has to introduce scheme in Gaushala for production of Nasli Stud (Pedigree Bulls) and charge a stud fee, which is a price paid by the owner of a female animal, such as a horse or a dog, to the owner of a male animal for the right to breed to it and shown as the Rakhi Loading Charges which consists of approximately 72 to 93% of the total receipts as shown in the above chart. Further, the Society has shown the expenditure on the eatables of the Cow of Rs.4,66,070/-, Rs.4,99,447/- and Rs.57,84,135/- for the FYs 2020-21, 2021-22 and 2022-23 respectively. Taking the volume of the receipts of the Rakhi Loading Charges, the expenditure on the Cow eatables is negligible and mainly pertains to the eatables of the Nandi/Bull.*

*5.2 The assessee also claimed the expenditure on Diesel of Rs.36,53,243/, Rs.70,01,073/- and Rs.11,09,076/- which also appears to be on the transportation of the Nandi's for earning the Stud fee. Apart from the above, the assessee claimed other regular expenses of business.*

*6. In the backdrop of above discussion, it is evident that the Society is carrying on business activities and generated huge profits from such business. Hence, no satisfaction about the genuineness of the activities can be recorded in the case and accordingly the application filed by the applicant for registration u/s 12AB of the Act is hereby rejected, which rejection and consequent lack of registration will apply from the AY 2024-25 onwards and also supersede any registration granted u/s 12AB or 12AA of the Act by any authority at any earlier time.*

4. During the course of hearing, the Ld. AR filed a paper book bearing pages 1 to 92 and was submitted that the Ld. CIT(Exemptions), Chandigarh has mentioned that the assessee society has mentioned about incidental activities about the society by breeding of cows, rakhi loading charges and wrong facts about expenditure on diesel for transportation of the Nandi for earning stud fee, while ignoring the main aim of their society to establish and maintain a goushala at Village Khedar, Tehsil Barwala, District Hissar (Haryana). It is further submitted that the word 'breeding' has not been used anywhere in the objects of the society. It was submitted that the Ld. CIT(Exemptions), Chandigarh has mentioned that the assessee society is rearing only male animals for breeding purpose but the text of the objective mentioned by the assessee society was that the society takes care of other

abundant animals. It was further submitted that the observation of the Ld. CIT(E) that the assessee was carrying out business activities of loading unloading and transportation of pond-ash from Rajiv Gandhi Thermal Power Plant. Khedar near to their society was also not appreciated in the proper perspective. It was submitted that by running the said business and the profit earned thereupon was utilized for welfare of cows and separate books of accounts for this business activities was also maintained by the Society. In this regard, the Ld. AR submitted an agreement dated 30<sup>th</sup> July 2022 between M/s. CDS DAK 5 Express Way (P) Ltd., Gurugram and the assessee society for loading/unloading of fly ash from the dykes of Rajiv Gandhi Thermal Power Plant, Khedar. In view of the above submissions, it was submitted by the Ld. AR that the impugned order of the Ld. CIT(Exemptions) may be set aside and the matter be remanded back to the Ld. CIT(Exemptions) to pass a fresh order after considering the submissions of the assessee and after giving a reasonable opportunity of being heard to the assessee.

5. We have considered the rival submissions and the materials on record. The reason or rejection of the application for registration under Section 12AB of the Act by the Ld. CIT(Exemption) has been reproduced earlier in this order. On careful perusal of the entire order, it is seen that the Ld. CIT(E) did not allow a reasonable opportunity of being heard to the assessee before rejecting the registration application of the assessee. In this regard, the provisions as laid down in clause (B) of sub-section (1) of Section 12AB of the Act lays down that in case the Ld. CIT(E) is not satisfied with the activities of the applicant then he may pass an order

writing rejecting the said application after affording a reasonable opportunity of being heard to the assessee. On the perusal of the impugned order dated 21/03/2024, it is seen that no opportunity of hearing or any show cause notice was issued by the Ld. CIT(E) before rejecting the application, which is violation of the above provision. Therefore, the said order dated 21.03.2024 of the Ld. CIT(E) cannot be sustained. Therefore, in order to serve the interest of justice and to allow the assessee society of one more opportunity of being heard, the impugned order dated 21.03.2024 of the Ld. CIT(E), Chandigarh rejecting the application for registration of the assessee society is set aside and restored back to his file for passing a fresh order after affording a reasonable opportunity of being heard to the assessee society. Ground nos. 1 to 3 of the appeal are allowed for statistical purposes.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> October, 2024

**Sd/-**  
**[VIKAS AWASTHY]**  
**JUDICIAL MEMBER**

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

**Dated** 18.10.2024.

*SK*

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi