

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

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. **29/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2024-25

Nayi Pahal Welfare Society, 97, Basant Nagar, JK Public School, Panipat 132102	Vs. बनाम	The CIT (Exemptions), Chandigarh
स्थायी लेखा सं./PAN No: AACAN5829K		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(PHYSICAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Rohit Kapoor, CA

राजस्व की ओर से/ Revenue by : Shri K. Mehboob Ali Khan, CIT DR

सुनवाई की तारीख/Date of Hearing : 21.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 01.11.2024

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 04.10.2023 of the Id. Commissioner of Income Tax, Exemptions, Chandigarh.

2. Grounds of appeal are as under: -

1. *On the facts and circumstances of the case, the order passed by the learned lower authority i.e.*

CTT(E) is bad both in the eve of law and against the circumstances of the case.

2. *That the CIT(E) has grossly erred in by passing ex-parte order under 2nd proviso to section 80G (5) by rejecting the application tiled in form 10AB in respect of conversion of provisional registration into final registration.*
3. *That the CIT(E) has erred in rejecting the application filed in form 10AB for 80G approval primarily due to non-compliance to notices in respect of registration u/s 12AB. That the ld. CIT(E) has failed to appreciate that the notices in respect of registration us 12AB were never served on the applicant's email id registered on the portal.*
4. *That the Ld. CIT(E) has tailed to appreciate the fact that non-compliance for notices under 12AB were only due to the fact that the notices were not even served in person or by speed post at the registered address of the society.*
5. *That the Ld. CIT(E) has erred in rejecting the application without giving the reasonable opportunity to the appellant as provided in subclause (b) of clause (ii) of 2nd proviso to section 80G(5).*
6. *The appellant craves leave to add, amend or alter any of the grounds of appeal.*

3. During the appellate proceedings, the Counsel of the Assessee has filed a written submission, which is as under: -

“7. From the above facts and circumstances, it is evident that the rejection of the registration under Section 80G was primarily due to the appellant not holding registration under Section 12AB at the time of the 80G application's rejection. Furthermore, it is a matter of record that no other discrepancies were noted by the Commissioner of Income Tax (Exemptions) in the rejection order concerning the submissions made by the assessee. Particularly the registration under Section 12AB, which was previously rejected, has now been restored, it is respectfully submitted that the rejection of the application under Section 80G should be vacated and remanded back to the CIT(E) for a decision on the merits.

.....

However, the Commissioner of Income Tax (Exemptions) rejected the application through an order issued in Form 10AD, citing the absence of registration under Section 12AB or 10(23C). In this regard, it is respectfully submitted that the application under Section 12AB, filed on 02.09.2022, was also rejected ex-parte under Section 12AB due to the alleged non-furnishing of submissions. The appellant was unable to respond to any notices because no notice was served to the assessee. The assessee had correctly included the email addresses, kapoor3003@gmail.com and carakeshchopra@gmail.com, in the taxpayer's profile on the department's online portal. Despite this, the department did not send any emails to the provided addresses listed on the taxpayer's online profile.”

4. At the very outset, the Counsel of the Assessee brought it to the notice of the Bench that despite the fact that the Assessee Society had given correct e.mail address, the Department did not serve any notice

on the given e.mail or through registered / speed post. The ld. Counsel also brought on record the decision of the Hon'ble jurisdictional Punjab and Haryana High Court in the case of 'Munjal BCU Centre of Innovation and Entrepreneurship Vs CIT(E) Chandigarh', CWP No. 21028/2023 dated 4.3.2024 and requested that as the service of notice was solely on portal which could not be seen by the Assessee, therefore, as per the Hon'ble jurisdictional High Court's decision in the above mentioned case, the Assessee may be presumed to have no knowledge of the proceedings. The ld. Counsel further submitted that as such, it cannot be treated as a valid service of notice. Accordingly, the ld. counsel requested to remand the matter back to the file of the Assessing Officer.

4. The ld. DR relied on the order of the CIT(A).

5. We have considered the findings of the ld. CIT(A) in his appeal order and the submissions made by the ld. Counsel of the Assessee during the proceedings before us. We find that the order passed by the ld. CIT(A) is an ex-parte order. In our opinion, the Assessee could not get reasonable opportunity to bring material fact on record before the ld. Commissioner of Income Tax (Exemptions). Therefore, in order to provide natural justice to the Assessee, the case is remanded back to the file of the CIT(E) to be decided afresh on merit, in accordance

with law, on affording due and adequate opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the lower authorities. All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

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

Order Pronounced on 01.11.2024.

Sd/-

(SANJAY GARG)
Judicial Member

Sd/-

(KRINWANT SAHAY)
Accountant Member

“आर.के.”

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