

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.322/Del/2024
ITA No.323/Del/2024
(ASSESSMENT YEAR-2022-23)**

EKAL GRAMOTHAN UTPAD FOUNDATION, A-15, GROUND FLOOR, LSC, B Q BLOCK, DDA MARKET, SHALIMAR BAGH, DELHI-110088	Vs.	COMMISSIONER OF INCOME-TAX (EXEMPTIONS)
(Appellant) PAN NO.AAECE8464D		(Respondent)

Assessee by	Shri Alok Periwal, CA
Department by	Shri Surender Pal, CIT, DR

Date of Hearing	06/11/2024
Date of Pronouncement	18/11/2024

ORDER

PER VIMAL KUMAR, JM:

Both Assessee's appeal are against order dated 29.11.2023 of the Learned Commissioner of Income Tax(Exemption), Delhi (hereinafter referred to as 'Ld. CIT(E) rejecting applications Form No. 10AB for grant of Registration under Section 12AB(1)(b)(ii)B

and clause (ii)(b)(B) of second proviso to Section 80G(5) of the Income Tax Act, 1961(hereinafter referred to as 'the Act').

2. Brief facts of the case are that the appellant/applicant electronically filed application Form 10AB seeking registration under Section 12AB(1)(b)(ii)B and clause (ii)(b)(B) of second proviso to Section 80G(5) of the Act. The applicant was issued questionnaire dated 20.07.2023 and 18.10.2023 with a request to furnish certain details/documents/clarifications in support of claim for registration. The case was fixed for compliance on 04.08.2023 and 02.11.2023. The applicant did not file any reply. The applicant was afforded an opportunity vide letter dated 08.11.2023. The applicant filed part submissions on 20.11.2023 and 22.11.2023. The applicant was afforded final opportunity vide letter dated 23.11.2023. In pursuance to notice dated 23.11.2023 the applicant filed letter dated 28.11.2023. The applications under Form 10AB for grant of registration were rejected vide order dated 29.11.2023.

3. The appellant/applicant preferred present appeal.

4. The Learned authorized representative for appellant submitted that Learned CIT(E) erred rejecting application in Form 10AB under Sections 12AB(1)(b)(ii) B and 80G of the Act on non-

genuineness of the activities of the trust. Learned CIT(E) erred in over looking and summarily rejecting/not considering tangible material submitted during the proceedings. So, the matter may be restored to the file of Learned CIT(E) for order afresh.

5. Learned authorized representative for revenue supported the impugned order.

6. From examination of records in light of aforesaid contention it is crystal clear the applications in Form 10AB for grant of registration under Section 12AB(1)(b)(ii) B and 80G of the Act were rejected for not filing complete details regarding charitable activities of the trust.

7. The appellant has pleaded that the appellant had filed following documents:-

S.No.	Particulars	Page No. of paper book
1.	Brief Details of Activities of the Trust and Its claim for Exemption Under Section 12A / Registration U/s 80G	19-20
2.	Order granting provisional registration under section 12A and section 80G in Form 10AC. (Date of Approval 31.08.2021)	38-41
3.	A detailed note on the activities carried by the applicant in previous three years and a projection/plan for the activities to be undertaken in future.	42-44
4.	Affidavit stating that none of the objects of the Company is in the nature of Trade, Business or	

	Commerce and there has been no infringement and there shall be no infringement to the 1 st Proviso to Section 2(15).	
5.	Affidavit stating that no part of the income of the Non-Profit Company endures, directly or indirectly for the benefit of any person specified in section 13(1)(c) of the Income Tax Act, 1961 and that no part of the income or property of the Company was ever used or applied for the benefit of any person specified in section 13(1)(c) of the Income Tax Act, 1961.	47-48
6.	Audited annual accounts i.e. Balance sheet, Income & Expenditure and Receipt & Payment for FY 2019-20, 2020-21, 2021-22, 2022-23 last 3 years along with Audit Report in Form No. 10B / 10BB wherever applicable.	49/122
7.	Details of Donation received during the Financial Year 2021-22 / 2022-23 / 2023-24.	123/125
8.	Certified copies of Aadhar Card and PAN Card as identity proof of the Directors along with their Income Tax Returns.	126/134
9.	Complete List of beneficiaries (Farmers) of the Organization	135/136
10.	Farmers Profile who are also the beneficiaries to the Organization, Haldi Production report showing various processes entered into by the Organization, Flow Chart for the entire process in which Organization is engaged and how it benefits the farmers through this.	137/151

8. Learned CIT(E) has not referred to above documents in the impugned order. The appellant/applicant had prayed for restoration of the matter for fresh adjudication.

9. Hon'ble Supreme Court of India in the case of **Ananda Social & Educational Trust vs Commissioner of Income Tax reported in 426 ITR 340 (SC)** has held as under :-

“12. Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, we are of the view that the term ‘activities’ in the provision includes ‘proposed activities’. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust.”

10. In view of above material facts and well settled principle of law in the interest of justice, the matter deserves to be restored to the file of Ld. CIT(E). Accordingly, we set aside the orders impugned and restore the matters to the files of the Learned CIT(E) for fresh adjudication in accordance with law after affording fair opportunity of hearing to both parties.

11. In the result, both the Appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 18th November, 2024.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

Dated: 18/11/2024

DP/SPS

Copy forwarded to:

1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(Appeals)**
5. **DR: ITAT**