

आयकर अपीलिय अधिकरण
दिल्ली पीठ "बी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER

आअसं.1707 & 1706/दिल्ली/2024 (नि.व. 2023-24)
ITA Nos.1707 & 1706/DEL/2024 (A.Y.2023-24)

DIPL Foundation,
SCO No. 327-328, Sector-20 Market,
Huda, Kaithal, Haryana 136027
PAN: AAJCD-8419-L

..... अपीलार्थी/Appellant

बनाम Vs.

Commissioner of Income Tax (Exemptions),
Chandigarh 160017

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sudhir Sehgal, Chartered Accountant
प्रतिवादीद्वारा/ Respondent by : Shri Surender Pal, CIT- DR
सुनवाई की तिथि/ Date of hearing : 14/11/2024
घोषणा की तिथि/ Date of pronouncement: : 14/11/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

These two appeals by the assessee are directed against the orders of Commissioner of Income Tax (Exemptions), Chandigarh (hereinafter referred to as 'the CIT(E)') rejecting assessee's application for grant of registration u/s. 12A of the Income Tax Act, 1961(hereinafter referred to as 'the Act') vide order dated 23.02.2024 and rejection of application for grant of approval u/s. 80G of the Act vide order dated 06.03.2024, respectively.

2. Shri Sudhir Sehgal, appearing on behalf of the assessee submits that the assessee is a company registered u/s. 8 of the Companies Act, 2013. The main objects of the company include to work towards environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, etc. In this direction the assessee has entered into an agreement with Municipal Council Kaithal on 08.02.2023 (a copy of the agreement is at page 23 to 25 of the paper book). As per the said agreement, the assessee has been developing and maintaining three local parks as detailed in the agreement. The assessee furnished all the relevant documents before the CIT(E) to substantiate activities being carried out by the assessee. The CIT(E) without considering submissions of the assessee and documents placed on record rejected assessee's application for grant of registration u/s. 12A of the Act, as well as, application for granting approval u/s 80G of the Act.

3. Per contra, Shri Surender Pal representing the department vehemently defended the impugned order. The Id. DR submits that the assessee has failed to prove genuineness of its activities to the satisfaction of CIT(E). The satisfaction of CIT(E) is must before granting registration u/s. 12A of the Act. In support of his argument, the Id. DR placed reliance on following decisions:-

i. CIT vs. A.R Trust, 86 taxmann.com 6 (Allahabad); and

ii. Self Employers Service Soccity vs. CIT 247 ITR 18 (Kerala).

4. We have heard the submissions made by rival sides and have examined the impugned orders. The assessee is registered u/s. 8 of the Companies Act, 2013. The assessee has placed on record Memorandum of Association of the assessee company at page 1 of the paper book. The objects of company *inter alia* includes:-

“1) To eradicate hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swach Bharat Kosh Set up by the Central Government or the promotion of sanitation and making available safe drinking water.

2) To promote education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.

3) To promote gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups

4) To ensure environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.”

5. In the direction of achieving object no. 4, the assessee has entered into an agreement with Municipal Council Kaithal. The said agreement starts at page 23 of the paper book. The assessee is stated to have carried out development and maintenance activity of the municipal parks at Kaithal. During the course of submissions, the Id. DR pointed that the balance sheet of the assessee as on 31.03.2023(at page 9 of the paper book) reflects that the assessee does not have any fixed assets to carry out its activities, he raised suspicion that without any equipment, how the activities of development of parks are being carried out by the assessee. The Id. Counsel for the assessee pointed that the activities of development and maintenance of parks were carried out by hiring the services of third party agencies for which payments were made and the bills were produced before the CIT(E).

5.1. A perusal of the impugned order reveals that the CIT(E) had raised certain queries. The assessee vide rletter dated 10.11.2023, replied to the queries raised by the CIT(E). The CIT(E) by making generic observations rejected application of the assessee for grant of registration u/s. 12A of the Act. The grant of approval u/s. 80G of the Act is offshoot of granting approval u/s. 12A of the Act. Once registration u/s. 12A of the Act is rejected, approval u/s. 80G of the Act has consequently being denied. Taking into consideration entire facts of the case, we deem it appropriate to restore both the issues i.e. non grant of registration u/s. 12A of the Act and non grant of approval u/s. 80G of the Act, to the CIT(E) for *denovo* consideration of respective applications. The CIT(E) shall seek relevant necessary/specific information, if any required from the assessee while considering the aforesaid applications of the assessee. The assessee shall provide necessary/relevant information to the satisfaction of CIT(E).

6. The impugned orders dated 23.02.2024 and 06.03.2024 are *set aside* and both appeals are restored to CIT(E) for *denovo* consideration of the respective applications of the assessee.

7. In the result, appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 14th day of November, 2024.

Sd/-

(S RIFAUR RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 14/11/2024

NV/-

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI