

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, DEHRADUN**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

[THROUGH VIDEO CONFERENCING]

ITA No.7/DDN/2020

[Assessment Year : 2018-19]

Shiva Yoga Peetham, Satya Narayan Mandir, Laxman Jhula, Pauri Garhwal, Rishikesh, Uttarakhand-249302. PAN-AAJAS1885K	vs	CIT(Exemption), Lucknow.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri A.S.Rana, Sr.DR	
Date of Hearing	27.07.2023	
Date of Pronouncement	27.07.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2018-19 is directed against the order of Ld.CIT(Exemption), Lucknow dated 06.11.2019.

2. The assessee has raised following grounds of appeal:-

1. *“Looking to the facts and circumstances of the case the order of Ld CIT (Exemption) Lucknow is bad in law.*
- 2.1 *Ld CIT (Exemption), in first attempt, did not pass any order and the limit of 6 months expired.*
- 2.2 *On second attempt, Ld CIT (Exemption) Lucknow has erred in passing the rejection order, so fast, without giving reasonable opportunity of being heard, dt. 06.11.2019 u/s 12AA(1)(b)(ii) of Income Tax Act, 1961.*
- 2.3 *That the case of hearing for registration u/s 12AA of the Income Tax Act 1961 was fixed for 05.11.2019 and the next day while passing the rejection order, the CIT (Exemption) Lucknow has not given the another*

opportunity of hearing this case of u/s 12AA., inspite of the fact that in first attempt, he himself did not move for two years.

3. *That the Assessee first time applied in u/s 12AA by manual filing dt. 23.03.2018 and E-filing of Form 10A dt. 27.03.2018 at Income Tax portal, but the CIT (Exemption), Lucknow issued 'NO ORDER'. Hence the limitation period of 6 months have been passed and Registration was supposed to be assumed if period of limitation expires.*
4. *That the appellant craves to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

3. Facts giving rise to the present appeal are that the assessee filed an application through electronic mode for registration u/s 12A(1) of the Income Tax Act, 1961 (“the Act”) in Form No.10A on 16.05.2019. Ld.CIT(Exemption) afforded an opportunity vide letter dated 24.10.2019 for responding to the specific queries by 05.11.2019. However, on the date i.e. 05.11.2019, no one appeared on behalf of the assessee and no information was filed as recorded by Ld.CIT(Exemption). Therefore, Ld.CIT(Exemption) rejected the application of the assessee. Against the rejection of application, the assessee is in appeal before this Tribunal.

4. At the time of hearing, no one appeared on behalf of the assessee. However, it is noticed that the assessee has taken a ground for not providing adequate opportunity of being heard to him.

5. Ld.Sr.DR supported the impugned order however, fairly conceded the fact that only one opportunity for hearing was given to the assessee.

6. We have heard Ld. Sr. DR and perused the material available on record. We find that the assessee has taken a specific ground regarding not providing

adequate opportunity of being heard to him. For the sake of clarity, the relevant contents of the impugned order are reproduced as under:-

2. *“The applicant society was accorded an opportunity of being heard and filing written submission by the CIT(E), Lucknow vide office letter F.No. ITBA/EXM/F/41/2019-20/1019376239(1)/10455 dated 24.10.2019, sent to the applicant on address provided by him in Form No. 10A via Speed Post, calling for specific queries regarding its application for registration u/s 12A, for compliance on 05.11.2019. However on 05.11.2019, none appeared nor was any application/intimation for adjournment received.*
3. *On perusal of the material available on record, it is observed that:-*
 - a. *The applicant has not produced original trust deed and other relevant documents required for verification to prove the objects of the trust and the genuineness of the activities.*
 - b. *No proof/documents regarding activities have been submitted by the applicant.*
 - c. *No books of accounts were produced or details of the expenditure have been submitted for verification.*
1. *The section 12AA(1)(a) of the Income-Tax Act, 1961 states that "The Commissioner shall call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of the trust or institution". Thus it becomes imperative on the part of the applicant society to provide corroborating evidences that form the satisfaction regarding the genuineness of the activities of the applicant which is mandated by law. In the absence of such satisfaction, the applicant loses its eligibility for consideration for according the said registration.*
5. *From the forgoing discussion, it is seen that the applicant has not chosen to file the details required and so it is presumed that the*

applicant has nothing to say in this regard. Therefore, the registration u/s 12AA cannot be granted for want of required information.

6. *Accordingly, the registration sought by the applicant u/s 12A(1) of the Income tax Act, 1961 is hereby rejected.”*

7. From the above, it is clear that a solitary opportunity was granted to the assessee which is clearly against the principle of natural justice. We therefore, set aside the impugned order and restore the application of the assessee to the file of Ld.CIT(Exemption) to decide it afresh after giving adequate opportunity of being heard to the assessee. Grounds raised by the assessee are thus, allowed for statistical purposes.

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

Order pronounced in the open Court on 27th July, 2023.

Sd/-

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT