



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "B", LUCKNOW**

[Through Virtual Hearing]

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT  
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.395/LKW/2020

Assessment Year: N.A.

Society for Advancing Rural Development, Bhakrauli, Gunnaur, Sambhal Distt.	v.	CIT (Exemptions) Lucknow
TAN/PAN:ABFAS7633E		
(Appellant)		(Respondent)

Appellant by:	Shri S.C. Agrawal, Advocate		
Respondent by:	Smt. Sheela Chopra, CIT (DR)		
Date of hearing:	23	06	2021
Date of pronouncement:	12	07	2021

**ORDER**

**PER A.D. JAIN, V.P.:**

This is assessee's appeal against the order of the ld. CIT (Exemptions), Lucknow, passed under section 12AA(1)(b)(ii) of the Income Tax Act, 1961, dated 22/07/2020.

2. There is a delay of 73 days in filing of this appeal. As per the application for condonation of delay, supported by the affidavit of Shri Grish Yadav, President of the assessee-society, we find that there was sufficient cause for delay in filing of the appeal. Accordingly, we condone the delay and admit this appeal for hearing.

3. The facts of the case, in brief, are that the assessee-society filed an application for registration under section 12A(a) of the Act on 07.12.2019. The CIT (Exemption) sent a letter

dated 13.05.2020 to the assessee calling for specific queries regarding its applications for registration under section 12A of the Act, for compliance on 01.6.2020, but none appeared on behalf of the assessee. The CIT (Exemption), providing another opportunity to the assessee, sent another letter dated 02.06.2020 for compliance on 10.6.2020, but none appeared on behalf of the assessee and accordingly the Id. CIT (Exemption) rejected the application of the assessee ex-parte qua the assessee.

4. The Id. Counsel for the assessee submitted that the assessee-society is registered by the Registrar of Society, U.P., vide certificate dated 20.02.2019; that the application for grant of registration u/s 12A was e-filed on 07.12.2019 before CIT(E), Lucknow furnishing full particulars as per Rule 17A of the I.T. Rules; that the Ld. Commissioner(E) rejected the application on the ground that for want of corroborative evidences regarding the genuineness of the activity, satisfaction could not be recorded and, therefore, according to him, the applicant-society was not eligible for consideration for registration u/s 12A of the Act; that all the details as required under Rule 17A of the Rules were furnished along with the application and it is an established law that at the time of consideration of registration, enquiry into the actual activity or application of funds, etc. is not required except with respect to the objects of the society and if the assessee is found to have been engaged in any non-charitable activity, the benefit of exemption can be denied, as held by the Hon'ble Allahabad High Court in the case of 'CIT vs. Baburam Education Society' [2018] 96 taxmarin.com 606 (All.); that the documents filed along with the application proved that the Society was genuine and the objects are charitable in nature; that all the documents proving the genuineness of the Society and its objects

were before the Ld. CIT(E), Lucknow; and that hence, it is incorrect to state that necessary details required for grant of registration was not available. The ld. Counsel for the assessee has also placed reliance on the decision of the Hon'ble Rajasthan High Court in the case of 'CIT vs. Dalibai Sewa Sansthan' [2018] 99 taxmann.com 290 wherein their Lordships have observed that at the time of registration, what has to be looked into is whether the Trust/Society is a genuine one or it is a sham institution floated only to avail benefits of exemption under the Act. The ld. Counsel for the assessee has also submitted that because of the Covid pandemic situation, the presence could not be put in before the CIT (E), in response to his letters dated 13.5.2020 and 2.6.2020; that it was therefore, the submissions could not be made before the CIT (E); and that if another opportunity is granted, the position can now be explained before the CIT (E).

5. The ld. D.R. has placed reliance on the order of the ld. CIT (Exemption).

6. Heard. From the order of learned CIT (Exemptions), it is apparent that the ld. CIT (Exemptions) had issued only two letters dated 13.5.2020 and 2.6.2020 calling for specific queries regarding its applications for registration under section 12A. On the dates fixed for compliance, none was present on behalf of the assessee and the case was decided ex-parte. The CIT (E) held that the applicant has chosen not to file the details required as per Rules 17A of the I.T. Rules, and therefore, it is presumed that the applicant has nothing to say in this regard, hence, the registration under section 12AA cannot be granted for want of required information. The averment of the ld. Counsel for the assessee before us was that all the documents as required under Rule 17A of the I.T. Rules were furnished before the CIT (E), but

without considering those documents, he rejected the application of the assessee ex-parte qua the assessee. It has also been contended that it was due to the prevailing Covid pandemic situation that the appearance could not be put in before the CIT (E) and that if an opportunity is granted to the assessee, the matter can be explained before the CIT (E) at this stage.

7. In view of these facts, we feel that one more opportunity should be given to the assessee to explain its case before the Id. CIT (Exemptions). We are of the view from the facts of the case that the assessee was prevented by sufficient cause from appearance before the CIT (E), due to prevalence of the Covid pandemic situation and that the assessee thus requires to be given another opportunity to explain its case before the CIT (E). We, therefore, in the interest of justice, set aside the order of the Id. CIT (Exemptions) and restore the matter to his file with a direction to consider and decide, within a period of two months from the date of receipt of this order, the application of the assessee for registration u/s 12A, afresh after giving due opportunity of hearing to the assessee. The assessee is also directed to co-operate in the fresh proceedings before the Id. CIT (Exemptions).

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

Order pronounced in the open Court on 12/07/2021.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
VICE PRESIDENT  
[A. D. JAIN]

DATED:12/07/2021

JJ:

Copy forwarded to:

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

By order

Assistant Registrar