

(2024) 04 ITAT CK 0019

Income Tax Appellate Tribunal (Delhi H Bench)

Case No: Income Tax Appeal No. 3316/DEL/2023

Yuva Jagriti Evam Jan Kalyan

Mission Trust

APPELLANT

Vs

CIT (Exemption)

RESPONDENT

Date of Decision: April 1, 2024

Acts Referred:

- Income Tax Act, 1961 - Section 12A(1)(ac), 80G, 127(1), 282, 282(1)

Hon'ble Judges: Saktijit Dey, (VP); N.K. Billaiya, (AM)

Bench: Division Bench

Advocate: Nikhil Goyal, Sapna Bhatia

Final Decision: Allowed

Judgement

- This appeal by the assessee is preferred against the order dated 08.05.2023 by CIT (E), Chandigarh relating to the denial of registration u/s. 80G of the Act.
- At the very outset the Counsel for the assessee stated that mere uploading of notice on the e-filing portal without following the procedure established u/s.282 of the Act is not a proper procedure as per law.
- Strong reliance was placed on the decision of Hon'ble High Court of Punjab and Haryana in the case of Munjal BCU Centre of Innovation and Entrepreneurship 160 taxmann.com 629.
- Per contra the DR fairly conceded that the issue may be restored to the file of the CIT(E) to be decided afresh.
- We have carefully considered the orders of the authorities below. There is no denying that the notices have been sent by uploading it on the e-filing portal. The

Hon'ble Punjab and Haryana High Court (supra) held as under :-

"The provisions of section 282(1) and rule 127(1) of the Income Tax Rules, 1962 provides for a method and manner of service of notice and orders. [Para 7]

It is essential that before any action is taken, a communication of the notice must be in terms of the provisions as enumerated. The provisions do not mention of communication to be 'presumed by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a Company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income tax provisions and the same are required to be necessarily followed [Para 8]

Having noticed as above, it is viewed that the petitioner has not been given sufficient opportunity to put up his pleas with regard to the proceedings under section 12A(1)(ac) and as he was not served with any notice. Therefore, he would be entitled to file his reply and the Department would of course be entitled to examine the same and pass a fresh order thereafter.

In view of the above, Writ Petition is allowed and the order dated 16.1.2023 is quashed and set aside".

6. Respectfully following the ratio laid-down by the Hon'ble High Court (supra) we set aside the order of CIT(E) and restore it back to his files to be decided afresh after affording a reasonable and adequate opportunity of being heard to the assessee.

7. In the result, the appeal is allowed for statistical purpose.

8. Order pronounced in the open court on 01.04.2024.