

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI
(Through Video Conferencing)**

**BEFORE,
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**I.T.A No.122/Del/2021
(ASSESSMENT YEAR-Nil)**

Hanumatdham Vidhyapeeth Nyas , Sukartal Morna, Muzaffarnagar-251316 (U.P.) PAN-AACTH 0016M (Appellant)	Vs.	CIT (Exemption), Lucknow (Respondent)
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Appellant By	Sh. Anil Kumar Jain, Adv.
Respondent by	Ms. Sunita Singh, CIT- DR
Date of Hearing	13.07.2021
Date of Pronouncement	13.07.2021

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the assessee against order dated 09.12.2020 passed by the Learned Commissioner of Income Tax (Exemption)-Lucknow {CIT(E)} wherein vide the impugned order the Ld. CIT(E) has rejected the assessee's application for grant of

registration u/s 12AA of the Income Tax Act, 1961 (herein after called 'the Act').

2.0 The following grounds have been raised by the assessee/appellant.

- “1. The Ld. CIT has erred in rejecting the registration of the Trust u/s 12AA in spite of furnishing of desired information.*
- 2. The Ld. CIT has erred in observing that there is not sufficient material to prove activities of the Trust.*
- 3. The order of Ld. CIT is against law and facts of case.*
- 4. The appellant craves the right to add, amend or withdraw any grounds of appeal at the time of hearing.”*

3.0 The Ld. Authorized Representative (AR) submitted that the assessee's application for registration u/s 12AA of the Act was rejected on the ground that the assessee had failed to produce any material which could have provided an insight into the activities of the applicant. He drew our attention to paragraph-3 of the impugned order and submitted that the dismissal of the assessee's application was bad in law as it was incumbent upon the Ld. CIT(E) to examine only the genuineness of the objects of the trust at the

stage of considering the assessee's application for grant of registration and not dismiss the assessee's application on the ground that charitable activities have not been carried out by the assessee so far. The Ld. Authorized Representative drew our attention to the paper book containing copies of documents filed in response to the queries raised by the CIT(E) in this regard and submitted that all the details required had been duly filed except for the list of donors who had donated amount exceeding Rs.2000/- as no such donations had been received.

4.0 Per contra, the Ld. CIT-DR placed reliance on the order of the Ld. CIT(E).

5.0 We have heard the rival submissions and have also perused the material on record. It is settled law that at the time of granting registration u/s 12AA of the Act, the Ld. CIT(E) is required to see only the objects of the assessee trust/society and not to go on to examine the application of income, which will have to be undertaken by the Assessing Officer on year to year basis after the assessee files the return of income claiming exemption u/s 11 of the Act. The Hon'ble Allahabad High Court in the case of *Fifth*

Generation Education Society vs. CIT reported in [1990] 185 ITR 634 (Allahabad) has held that at the time of considering the application for grant of registration u/s 12A of the Act, the Ld. CIT(E) is not required to examine the application of income or carrying on of any activity by the assessee trust or institution in terms of the objects set out therein. The Hon'ble Madhya Pradesh High Court in the case of *CIT vs. D.P.R Charitable Trust* reported in [2011] 61 DTR 410, has held that while considering the application u/s 12A, the Ld. CIT(E) while granting registration is not required to examine whether the income derived by the trust is being spent for charitable purposes or whether the trust is earning profit. It was held by the Hon'ble Madhya Pradesh High Court that since the assessee trust was established for educational purposes, the trust was entitled to registration.

5.1 Therefore, the settled judicial precedent is that at the time of considering the assessee's application for grant of registration u/s 12AA of the Act, the Ld. CIT is required only to examine the objects of the society/trust and to grant registration if the objects are found to be charitable in nature. However, in the instant case,

the Ld. CIT(E) has gone beyond the mandate conferred upon him under the Act and has dismissed the assessee's application for registration without even considering the objects of the assessee trust. We, accordingly, restore the file to the office of the Ld. CIT(E) with a direction that he should reconsider the assessee's application for registration of the trust after duly considering the objects of the assessee trust and after giving proper opportunity to the assessee/applicant to present its case.

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

Above decision was announced on conclusion of Virtual Hearing on 13th July, 2021

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Dated: 13/07/2021

PK/PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT DEHRADUN