

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “ बी ” , चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH “B”, CHANDIGARH**

**श्री एन.के.सैनी, उपाध्यक्ष एवं श्री आर. एल. नेगी, न्यायिक सदस्य**  
**BEFORE: SHRI. N.K.SAINI, VP & SHRI. R.L. NEGI, JM**

आयकर अपील सं./ ITA NO. 1558 /Chd/2019

निर्धारण वर्ष / Assessment Year : 2019-20

Sri Guru Raaj Sewa Ashram Trust C/o Sh. Tejmoan Singh, Advocate, #527, Sector-10-D, Chandigarh	बनाम	The CIT(E) Sector-17 Chandigarh
स्थायी लेखा सं./PAN NO: AAMTS7234C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Tejmoan Singh, Advocate

राजस्व की ओर से/ Revenue by : Shri G.S. Phani Kishore, CIT

सुनवाई की तारीख/Date of Hearing : 07/10/2020

उद्घोषणा की तारीख/Date of Pronouncement : 07/10/2020

**आदेश/Order**

**PER N.K. SAINI, VICE PRESIDENT**

This is an appeal by the Assessee against the order dt. 18/11/2019 of the Ld. CIT(E), Chandigarh.

2. Following grounds have been raised in this appeal:

1. That the Ld. Commissioner of Income Tax has erred in law as well as on facts in rejecting application for registration under section 12AA of the Act ex-parte without affording proper opportunity of hearing which is arbitrary & unjustified.

2. That the Ld. Commissioner of Income Tax Exemptions has erred in observing that the assessee did not file any reply which is contrary to the facts on record and as such the order passed is arbitrary and unjustified.

3. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.

4. That the order of the Ld. Commissioner of Income Tax is erroneous, arbitrary, opposed to law and facts of the case and is, thus, untenable.

3. The main grievance of the assessee relates to the rejection of the application moved under section 12AA of the Income Tax Act, 1961 (hereinafter referred to as 'Act') vide impugned order by the Ld. CIT(E) by passing the ex-parte order.

4. During the course of hearing the Ld. Counsel for the Assessee at the very outset stated that the Ld. CIT(E) without affording the due and reasonable opportunity of being heard rejected the application moved by the assessee which is against the principles of natural justice. He requested to restore the matter back to the file of the Ld. CIT(E) to be adjudicated afresh by providing due and reasonable opportunity of being heard.

5. In his rival submissions the Ld. DR strongly supported the impugned order passed by the Ld. CIT(E) and also submitted that ample opportunities of being heard were provided but the assessee did not avail the same, therefore, there was no alternative except to decide the application of the assessee by passing the exparte order.

6. We have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case it is an admitted fact that the Ld. CIT(E) passed the impugned order exparte. He simply stated that the case was fixed for hearing on 31/10/2019 and finally on 07/11/2019. However nothing is brought on the record to substantiate that the notice for hearing was served upon the assessee. It is well settled that nobody should be condemned, unheard as per the maxim, "audi alteram partem".

7. We therefore by keeping in view the principles of natural justice, deem it appropriate to set aside this case back to the file of Ld. CIT(E) to be adjudicated afresh

in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order pronounced in the open Court on 07/10/2020 )

**Sd/-**  
**आर. एल. नेगी**  
**(R.L. NEGI )**  
**न्यायिक सदस्य/ Judicial Member**  
**AG**  
**Date: 07/10/2020**

**Sd/-**  
**एन.के.सैनी,**  
**( N.K. SAINI)**  
**उपाध्यक्ष / VICE PRESIDENT**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File