

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE 'A' BENCH, BANGALORE**

**BEFORE SHRI VIJAYPAL RAO, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

**ITA Nos.1206 & 1207(BNG)/2015
(Assessment year :**

M/s Waste Impact Trust,,
No.A/41, 31st Cross,
Jayanagar, 7th Block,
Bangalore-560 082

Appellant

Vs

The Commissioner of Income-tax(E),
Queen's Road,
Bangalore-560 001

Respondent

**Assessee by : Shri H.V.Gowthama, CA
Revenue by : Shri G.R.Reddy, CIT-DR-I**

**Date of hearing : 03-12-2015
Date of pronouncement : 13-01-2016**

ORDER

PER SHRI INTURI RAMA RAO, AM :

These are the appeals filed by the assessee - trust directed against the orders of CIT, (Exptn.) dated 31-07-2015 denying the registration u/s 12A of the IT Act, and recognition u/s 80G of the IT Act, 1961.

2. Briefly, the facts of the case are that the assessee-trust was formed on 11-11-2014 and it was duly registered with the Sub-registrar, Jayanagar, Bangalore. The assessee society was formed with the following objects.

i) To provide sustainable services in all areas affecting the total quality of environment, ground, water and air.

ii) To provide sustainable alternatives to dumping solid waste across India;

iii) To reduce waste dumped into landfills;

iv) To identify and promote best practices in the Waste Management sector;

v) To do research and feasibility studies to explore new methods of managing waste;

vi) To work towards improving waste picker livelihoods and working conditions;

vii) To increase transparency in the waste management sector;

viii) To co-operate and work in partnership with other organizations in the waste management sector to optimize performance and impact, on the environment;

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ix) To support high potential initiatives, helping them build operational capacity for growth and prepare for scale;

XII) To support building of institutions and training programmes for creating world class professionals to work in the environment and waste management sector;

xi) Generally to do such acts, deeds and other things which are incidental and conducive to the attainment of all or any of the above objects.

3. Thus, the assessee-society was formed with the object of the improving the quality of environment, water and air. The assessee society made an application in form no.10A dated 8-01-2015 to the CIT(Exptn.) Bangalore for registration of the Trust u/s 12A of the Act, 1961 and for approval u/s 80G of the IT Act, 1961 in form no.10G vide application dated 23-01-2015 for grant of approval u/s 80G of the IT Act, 1961. The Id. CIT(Exptn.) vide his letter dated 06-043-2015 sought certain information which has been duly complied by the assessee-society vide letter dated 19-06-2015. After perusing the information filed by the assessee-society the CIT vide his impugned order dated 31-

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07-2015 had denied the registration u/s 12A and approval u/s 80G of the Act, vide impugned order dated 31-07-2015 by holding that the assessee society had not carried out any activities of the objects enumerated in the trust deed and therefore, inferred that the assessee-society had not furnished any documentary evidence to show the genuineness of the trust.

4. Being aggrieved the assessee-society is before with the present appeals.

5. The ld.AR contended that the registration cannot be denied on the ground that no activities have been carried out. In this connection, he relied on the decision of the jurisdictional High Court in the case of CIT Vs Sri Gururaja Seva Samithi in ITA No.411/2009 and also in the case of Sanjeevamma Hanumanthe Gowda Charitable Trust Vs DIT(Exemptions) 285 ITR 327.

6. On the other hand, learned CIT, DR relied on the orders of the CIT(Exeption) .

7. We have heard the rival submissions and perused the material on record.

8. In the present appeal, the only issue to be adjudicated is whether the CIT(Exeption) is justified in denying the registration u/s 12A of the Act and approval u/s 80G of the IT Act, 1961. The ld. CIT(Exeption) denied the registration only on the ground that the assessee- trust had not commenced the activities. Therefore, he inferred that the genuineness of the trust activities was not established by the assessee-society. In our considered opinion, the approach of the ld.CIT(Exeption) is totally erroneous and cannot stand the test of the law laid down by the Hon'ble jurisdictional High Court in the cases referred by the learned AR(supra). The Hon'ble jurisdictional High Court in the case of Sri Gururaja Seva Samithi had clearly held that the question of verifying the activities of the trust can be considered only after it is

registered and carries on activities subsequently. The Hon'ble High Court after referring to the its earlier decision in the case of Sanjeevamma Hanumanthe Gowda Charitable Trust Vs DIT(Exeption.) held as follows;

“4. It is an undisputed fact that at the time of application for registration the respondent society had not commenced its activities and had not received the income. The question of verifying the genuineness of the activities of a trust can be considered only after it is registered and carries on the activities. It is settled law that in the first year when the trust is sought to be registered, it could not have carried out any activity, thus the question of verifying the genuineness of such activities cannot be considered. The refusal to register the trust on such ground by the DIT(Exptn.) could not be justified. The Tribunal has relied on the Division Bench judgment of this court in the case of Sanjeevamma Hanumanthe Gowda Charitable Trust Vs DIT(Exptn.) 285 ITR 327, wherein it has been held that for arriving at the satisfaction for genuineness of the society or trust, the CIT has to look at the objects of the trust and it is not authorized to go into the nature of the activity by which the income is derived by the trust.

5. In the present case, the question is with regard to the registration of the trust in question wherein the objects have been clearly specified. The question of assessing the activities of the trust would arise only after the trust is registered and carries on the activities. At the time of initial registration, the same cannot be a question to be considered. In our view, the Tribunal has rightly allowed the appeal and directed the DIT(Exptn.) to register the society as a religious trust u/s 12A of the Act”.

It may be further added that the Co-ordinate Bench of the Delhi Tribunal (Hon’ble AM is the author) in the case of Paramount Public School Vs CIT, Rohtak in ITA No.5712(Del.)2013 dated 28-10-2015 after referring to the decision of the Hon’ble High Court of Karnataka in the case of Sanjeevamma Hanumanthe Gowda Charitable Trust Vs DIT(Exeptn.) 285 ITR 327 (Kar.) Hon’ble P&H High Court in the case of CIT Vs Surya Education and Charitable Trust (2013) 355 ITR 280(P&H) and Allahabad High Court in the case of Fifth Generation Education Society Vs CIT 185 ITR 634 (All.HC) held as follows vide para-7 of the judgment..

.....

“7. The ratio that can be culled out from the above decisions is that the Commissioner is only entitled to examine whether the objects of the institutions are charitable or not. Once the objects of the institutions are found to be charitable, the Commissioner has no option, but to grant registration. In the present case the Commissioner has not found that any objects of the trust are not charitable in nature. The objections raised by the CIT that the appellant had failed to comply with the direction of the Commissioner of Income, Rohtak to file the details of donors of corpus funds and the institution was collecting the fees from the students are not relevant considerations at the time of grant of registration under [Section 12AA](#) of the Act. These are the issues to be examined during the assessment proceedings after grant of the registration under [section 12AA](#) of the Act. Therefore, we direct the Commissioner of Income Tax, Rohtak, to grant registration to the appellant society within a period of 30 days from the date of receipt of this order. Accordingly, the grounds of appeal filed by the appellant society are allowed in full.

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9. Therefore, the proposition laid down in the aforesaid cases are that genuineness of the activities of the trust cannot be gone into at the time of registration of the trust. It is only after the activities of the trust are commenced the genuineness of the objects can be examined during the course of assessment proceedings, after the grant of registration by the IT Authorities. Respectfully following the ratio laid down in the cases cited supra, we direct the ld.CIT(Exeption.) to grant the registration u/s 12A of the IT Act, after satisfying himself that the objects of the trust are charitable in nature. With this direction, we restore the matter to the file of the ld.CIT(Exeption.). Thus, the appeal filed by the trust is partly allowed for statistical purpose.

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Since we have directed the ld.CIT(Exeption.) to grant the registration of the trust under the provision of sec.12A of the Act, after satisfying himself that the objects of the trust are charitable in nature in the appeal No1207(B)/2015, therefore, the issue of approval u/s 80G is only consequential in nature and therefore, this issue also is restored to the file of the ld.CIT(Exeption.) with a direction that if the registration

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is granted u/s 12A of the Act, to grant approval u/s 80G of the IT Act, 1961.

10. In the result, the appeals filed by the assessee-trust are partly allowed for statistical purposes.

Order pronounced in the open court on the 13th January, 2016.

Sd/-
(VIJAYPAL RAO)
JUDICIAL MEMBER
Place: Bangalore
D a t e d : 13-01-2016

am*

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

Sd/-
(INTURI RAMARAO)
ACCOUNTANT MEMBER

By order, AR,ITAT, Bangalore