

IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU BENCH 'A', BENGALURU

BEFORE SHRI. VIJAY PAL RAO, JUDICIAL MEMBER

AND

SHRI. S. JAYARAMAN, ACCOUNTANT MEMBER

I.T.A No.1402/Bang/2015
(Assessment Year : NA)

Deshpande Educational Trust,
DCSE Building, BVBCET Campus,
Vidyanagar, Hubli 580 031
PAN : AABTD4450G

.. Appellant

v.

Commissioner of Income Tax (Exemption),
Bengaluru

.. Respondent

Assessee by : Shri. H. N. Khincha, CA
Revenue by : Shri. Sunil Kumar, Verma, CIT – DR

Heard on : 23.09.2016
Pronounced on : 09.12.2016

ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER :

This is an appeal filed by the assessee, a trust, against an order of the CIT (Exemption) (CIT), Bengaluru, dt.31.08.2015, rejecting the application for recognition u/s.80G of the Income tax Act, 1961.

02. Assessee filed an application for recognition u/s.80G on 05.02.2015. The CIT noticed from the activities of the trust that it is engaged in conducting following training courses :

1. Deshpande Fellowship Orogram
2. Deshpande Susandhi Koutilya

3. Deshpande Susandhi Fellowship
4. Deshpandi Susandhi Electricial Program
5. Susandhi Krishi Chetana
6. Navodyami

2.1 After going through the content and details of the above courses, the CIT held that the courses are in the nature of private training coaching of various skills, there is no element of normal schooling or object of education within the meaning of charitable purposes as per section 2(15) and in view of that the assessee is not eligible for recognition u/s.80G(5) . Accordingly, he rejected the application for recognition u/s 80G . Aggrieved, the assessee filed this appeal with following grounds :

1. *The learned Commissioner of Income tax (Exemptions), Bangalore has erred in passing the order in the manner passed by him. The order so passed being bad in law is liable to be quashed.*
2. *The learned Commissioner of Income tax (Exemptions). Bangalore has erred in rejecting the application filed for recognition under section 80G of the Income tax Act, 1961. The reasons given by the learned Commissioner of Income tax (Exemptions), Bangalore in rejecting the said application is bad in law and liable to be quashed.*
3. *In view of the above and other grounds to be adduced at the time of hearing, the appellant prays that the order passed by the learned CIT(E) be quashed or in the alternative the learned DIT(E) be directed to grant recognition under section 80G of the Income tax Act, 1961 to the appellant with effect from Assessment year 2015-16 as per section 80G(5)(vi) read with rule 11AA of the Income tax rules,1962.*

03. We heard the rival contentions and perused relevant materials. The AR submitted that the CIT, Hubli has reviewed the registration granted to the assessee-trust under section 12AA and passed an order dt.9.5,2012 .

In the that order , the CIT has given a finding that the activities of the assessee-trust do not fall within the ambit of "Charitable purposes" as defined by the amended provisions of the section 2(15) and has therefore withdrawn the registration granted from 6.10.2010 i.e. the date from which the registration u/s.12AA of the Act. Aggrieved, the assessee -trust filed an appeal before the Tribunal and this Tribunal allowed the assessee's plea. The CIT passed the impugned order thereafter and hence that order should be quashed .

04. We have gone through the order. This Tribunal in its order ITA No 857/ Bang/2012 dt 28.03.2013, inter alia, held that

" 4.3.3we find that the basic conditions necessary for invoking the power of cancellation of registration in the case on hand have not been met / complied with, In view of the above, we hold that the CIT, Hubli was not justified in cancelling the registration under section 12AA(3) of the Act by applying the proviso to section 2(15) of the Act and that the order of cancellation of registration dt.9.5.2012 in the present case cannot be sustained. For the reasons given above, we quash the impugned order under section 12AA(3) of the Act dt.9.5.2012 and thereby allow the assessee's appeal.

4.3.4 As it has been held that the cancellation of registration under section 12 AA(3) of the Act in the case on hand is not sustainable as the necessary conditions are not fulfilled and thereby the assessee's grievance is addressed, we do not see any reason to deal with question No.(i) (laid out in para 4.3.1 of this order) as to whether the activities of the trust are in the nature of trade, commerce or business, as it would only be an academic exercise".

05. Since the order of the CIT , as mentioned in para 2, supra, is cryptic, it is set aside with a direction to him to pass a speaking order in accordance with the Act , after giving adequate opportunity to the assessee.

06. In the result, assessee's appeal is treated as allowed for statistical purpose .

Order pronounced in the open court on 9th day of December, 2016.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

MCN*

Copy to:

1. The assessee
2. The Assessing Officer
3. The Commissioner of Income Tax
4. The Commissioner of Income Tax (A)
5. DR
6. GF, ITAT, Bangalore

By Order

Assistant Registrar