

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.10 & 11/Mds/2015

निर्धारण वर्ष / Assessment Year : N.A.

M/s SAHAYOG,  
No.3, Manchester Albatross,  
Gold Club Toad,  
Chettipalayam,  
Coimbatore – 641 201.

v. The Commissioner of  
Income Tax-III,  
Coimbatore.

PAN : AAOTS 0431 K

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri V. Jagadisan, FCA

प्रत्यर्थी की ओर से/Respondent by : Dr. S. Moharana, CIT

सुनवाई की तारीख/Date of Hearing : 21.04.2015

घोषणा की तारीख/Date of Pronouncement : 01.05.2015

### आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the assessee are directed against the orders of the Commissioner of Income Tax-III, Coimbatore, dated

12.11.2014, rejecting the registration under Section 12A and recognition under Section 80G of the Income-tax Act, 1961 (in short 'the Act'). Since both the appeals were heard together, they are disposed of by this common order.

2. Shri V. Jagadisan, the Ld. representative for the assessee, submitted that the assessee was established by a Trust deed dated 28<sup>th</sup> April, 2014. The assessee filed an application for registration under Section 12A and recognition under Section 80G of the Act on 20.05.2014. According to the Ld. representative, the Commissioner rejected both the applications on the ground that the assessee has not produced any books of account. Therefore, it is not ascertainable whether the Trust was engaged in charitable activities within the meaning of Section 2(15) of the Act. The Trust filed its application before the Commissioner within a month from the date of its establishment. Therefore, rejection of the application on the ground that the assessee has not filed any books of account is not justified. On a query from the Bench, what is the object of the Trust as per the Trust deed, the Ld. representative submitted that this was not considered by the Commissioner. The Commissioner simply rejected the applications of the assessee only on the ground that books of account were not produced. The Ld. representative placed

his reliance on the judgment of Delhi High Court in the case of DI(Exemptions) v. Foundation of Ophthatmic & Optometry Research Education Centre (254 CTR 133) and the judgment of Karnataka High Court in the case of DI v. Garden City Educational Trust (330 ITR 480). The Ld. representative has also placed reliance on the judgment of Madras High Court in the case of NewLife in Christ Evangelistic Association v. CIT (246 ITR 532) and also the judgment of Punjab & Haryana High Court in the case of Sonapat Hindu Educational and Charitable Society v. CIT and another (278 ITR 262).

3. On the contrary, Dr. S. Moharana, the Ld. Departmental Representative, submitted that the assessee has not done any charitable activities. Therefore, the Commissioner has rightly rejected the applications for registration under Section 12A and recognition under Section 80G of the Act. As one of the objects of the assessee was education, according to the Ld. D.R., the assessee entered to establish school with profit motive.

4. We have considered the rival submissions on either side and perused the relevant material on record. We have also gone through the copy of the Trust deed filed by the assessee. As per the Trust deed, the objects of the Trust is as follows:-

(1) *The Authors of the Trust hereby declare and create the Trust called SAHAYOG (hereinafter called the Trust) for the purposes and objects hereinafter appearing:*

- (a) *To establish, constitute, build, administer and maintain educational institutions, of all kinds – Nursery of Kindergarten Schools, Primary schools, Secondary Schools, Arts Colleges, Science Colleges and Technological Institutions up to the highest standards for the imparting of scientific knowledge generally.*
- (b) *To give practical training in the manufacture of all kinds of articles by opening, establishing, constructing, developing workshops and factories and manufacturing electrical and other goods of commercial value and utilizing the income thereof for the furtherance of the charitable Trust hereby constituted.*
- (c) *To encourage and provide literary, scientific and technical knowledge by establishment of laboratories, libraries and start publication of journals, periodicals and other books in furtherance of this object.*
- (d) *To establish and conduct hostels, boarding houses and residential retreat accommodations for the benefit of the students studying in the institutions, program participants and others.*
- (e) *To establish, maintain and conduct nursing homes.*
- (f) *To establish, maintain and conduct medical dispensaries and centres offering affordable medical aid and give grants for medical services to those requiring specialized care who are unable to afford it.*
- (g) *To either establish by the Trust or through other Trusts Yoga and Meditation centres either in the property of the Trust or by donating any part of the property of the Trust to any other Trust or institution which can administer yoga and meditation centres.*
- (h) *To provide any other facility or infrastructure incidental to education provided by the Trust and to benefit those beneficiaries who are interested in availing any other facilities while seeking pursuit of education in the institutions established by the Trust.*
- (i) *To establish and provide sports facilities including training and coaching centres for sports activities, building gymnasium or any indoor or regular stadium directly or through any other Trust by donating any part of the property of Trust.*
- (j) *To establish well equipped ayurvedic and holistic health centres to provide treatment and therapies for the relief of persons who are afflicted with or suffer*

*from rheumatism, paralysis, neuralgia, insanity, diabetes, obesity, anxiety, depression, hypertension, stress, blood pressure, digestion issues etc. and also to educate and sensitize the public about the advantage of ayurvedic and holistic health enhancing methods and their application for proper and good health.*

*(k) To carry out any other philanthropic Public Charitable purpose which the Charities is empowered and capable of doing not inconsistent with the objects set out above.*

*(2) The objects specified in clause (1) supra shall be independent of each other and the Board of Trustees hereinafter constituted may, from time to time, apply the funds of the Trust in carrying out all or any of the aforesaid objects of the Trust as it may in its absolute discretion think fit.”*

Apparently, the Commissioner has not considered the objects of the Trust. It is not known how establishment of workshop and factories would come within the meaning of “charitable activities” under Section 2(15) of the Act. Similarly, to establish and conduct hostels and boarding houses are also included in object clause. Establishment and administration of educational institution would fall within the meaning of “education” under Section 2(15) of the Act. The income incidental to education would be eligible for exemption, provided the same is applied for educational activities. However, the Trust deed provides for establishment of workshops, factories, hostels, boarding houses, etc. These objects have to be examined by the Commissioner and find out whether these objects would fall within the meaning of charitable activities under Section 2(15) of the

Act. Moreover, the assessee-Trust was established by a registered deed on 20<sup>th</sup> April, 2014 and the application was filed for registration on 20.05.2014. Therefore, within a short span of time, the assessee could not have carried out substantial work. However, the CIT has to examine the objects as per the Trust deed and other details so as to satisfy himself the genuineness of the activities of the Trust. Accordingly, without expressing any opinion on merit, the orders of the lower authority are set aside and the issue of registration under Section 12A and recognition under Section 80G of the Act is sent back to the file of the Commissioner. The Commissioner shall examine the objects of the Trust and other details, regarding beneficiaries who are entitled for benefit of the Trust, utilization of surplus funds at the end of the financial year and utilization of the available funds on the dissolution of the Trust. Thereafter, the Commissioner shall decide the issue in accordance with law, after giving a reasonable opportunity to the assessee.

5. With the above observation, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on 1<sup>st</sup> of May, 2015 at Chennai.

sd/-  
(A.Mohan Alankamony)  
(ए. मोहन अलंकामणी)  
लेखा सदस्य/Accountant Member

sd/-  
(N.R.S. Ganesan)  
(एन.आर.एस. गणेशन)  
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,  
दिनांक/Dated, the 1<sup>st</sup> May, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT-III, Coimbatore
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.