

IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH 'D' NEW DELHI

BEFORE : SHRI H.S. SIDHU, JUDICIAL MEMBER &
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA No. 6318/Del/2013

Verma Skill Tech Educational &
Research Institute, C/o M/s. Anuj
Goyal & Co., C.A., 204, Deep Complex,
Begum Bridge Road, Meerut.
(PAN: AAATV 7565K)
(Appellant)

vs.

Commissioner of
Income-tax, Meerut.

(Respondent)

Appellant by : Sh. P.S. Kashyap, C.A.
Respondent by : Ms. Mona Singh, CIT/DR.
Date of hearing : 23.03.2017
Date of pronouncement : 29.03.2017

ORDER

Per L.P. Sahu, Accountant Member:

This is an appeal filed by the assessee against the order of Id. CIT, Meerut dated 23.09.2013 u/s. 12AA(1)(b)(ii) of the IT Act, 1961 (for short 'the Act') on the following grounds :

"1. That the learned Commissioner of Income-tax erred in law and on the facts by rejecting the application for registration u/s 12AA of the Income-tax Act, 1961 without appreciating the facts of the case. The claim of the appellant falls under the provisions of section 2(15) of the Income-tax Act, 1961. Hence, the CIT erred in law and on the facts by rejecting the application of the appellant.

2. That the learned Commissioner of Income-tax erred on facts:

2.1 In observing that the appellant Society has not utilized 85% of its receipts for attainment of objects for which it was established. The very basis and observation, though not of relevance for grant of registration u/s 12AA, are still factually incorrect.

2.2 In observing in the body of order in para 5, the facts quoted by the learned Commissioner of Income-tax are not of appellant Society and they belong to some other assessee which clearly shows that while framing of the Order, the learned CIT has not applied her mind and hence, the Order passed is not sustainable in law.

2.3 In observing that no books of accounts , bills and vouchers were produced which is factually incorrect.

Hence the order passed by the Ld CIT deserves to be annulled and registration U/s 12AA be granted to Appellant.

3. That the learned Commissioner of Income-tax has exceeded her jurisdiction while deciding the issue of grant of registration u/s 12AA of the income-tax Act, 1961 by not seeing the objects of the appellant Society and the genuineness of the activities carried on by it.

4. That the appellant Society is eligible for grant of registration u/s 12AA as it fulfills all the pre-conditions prescribed in the Act."

2. The brief facts of the case are that the assessee applied for registration u/s. 12A vide application dated 30.03.2013 before the CIT, Meerut. The Society is running vocational training institute under the name and style "India Skill Tech Institute (ITI), Meerut since 2005-06. The Society was required to produce books of account, bills and vouchers for the last year and to furnish documentary evidences regarding ownership of the society land. On the fixed date of hearing, the counsel for the assessee appeared and filed part reply. However, no books of account, bills and vouchers as required by the department were produced. The ld. CIT after considering the submissions of the assessee and relying on some case laws, rejected the application for

registration for the reason that the appellant society had not utilized 85% of its receipts for attainment of the objects for which it was established; that the appellant society is not engaged in providing normal education to qualify for charitable purpose as defined u/s. 2(15) of the Act; that no books of account, bills vouchers were produced; that the ownership of the immovable property was assumed for giving undue benefit to the interested persons.

3. The ld. AR submitted that the ld. CIT has denied the registration without appreciating the correct facts and he just pasted the facts after cutting the same from some other order of a different society, which do not relate to the objects and activities of the assessee-society. The society is engaged within the framework of its objects. Before the ld. CIT, the assessee had submitted that the books of accounts are being produced, as mentioned in para 10 of the written synopsis produced before him, copy of which is placed at page 65 of the paper book. The society is actively engaged to empower Under Privileged Sections of Trust (Socially, Economically Weaker Sections-Scheduled Caste (SCs) & Scheduled Tribes (STs), OBCs/Buddhists & others. Physically and Mentally challenged, Distress, women, orphan, senior citizens etc by providing Knowledge-Information, Multi Skill Development Training/Education, Medical and Health Care, Awareness, Vocational Training, Meaningful Sustainable Employment Oriented Programmes, Counseling and Guidance, Manpower Overseas, Hostel for student (Boys/Girls) for SCs/Sts/Buddhists & others as well as for working women etc. to provide better care of needy youths/persons to lead a meaningful & sustainable quality of life. He also submitted that the society has not violated the provisions of section 2(15) of the Act. During the course of hearing, he requested that the books of account will be produced before the ld. CIT along with original Rules and Regulations

and registration certificate of the society. He also relied on the following decisions :

- (i). DIT(E) v. Pradan Property Holding Trust, ITA No. 361/2007
- (ii). Sai Ashish Charitable Trust vs. DIT(E), ITA No. 5501/Del/2012
- (iii). CIT v. Varanasi Welfar Trust, ITA No. 227/2014
- (iv). CIT-II v. M/s. R.S. Bajaj Society, ITA No. 36/2013

4. On the other hand, the ld. DR supported the order of ld. CIT and relied on two case laws in the case of Sole Trustee, Loka Shikshana Trust v. CIT, 101 ITR 234 (SC) and Bihar Institute of Mining & Mine Surveying v. CIT, 208 ITR 608 (Pat.).

5. After hearing both the parties and perusing the materials available on record, we noted that the ld. CIT while adjudicating upon the application of assessee-society, appears to have noted the activities of some other case, viz., S.K. Educational Society, in para 5 of the impugned order. In fact, the activities mentioned in para 5 of the impugned order, do not pertain to the assessee-society, as also stated by the ld. AR. The consideration of activities of some other society to reject the registration application of appellant society is not justified at all.

6. The ld. CIT has also observed that no books of account were produced before him, but the ld. AR submits that all books of account along with vouchers were produced before him, as is evident from para 10 of the submissions dated 07.08.2013 given before the CIT, wherein it has been categorically mentioned that "books of accounts along with vouchers are being produced herewith". Keeping in view the contradiction between the version of ld. CIT and that of ld. AR regarding production of books of account, and the submissions of the assessee-society placed before us, we think it

appropriate to remit the matter of registration back to the file of Id. CIT, Meerut for fresh consideration. The assessee shall be given reasonable opportunity of being heard and the assessee is directed to produce all the relevant evidences as required by Id. CIT. Accordingly, the appeal of the assessee deserves to be allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29.03.2017.

Sd/-
(H.S. SIDHU)
Judicial Member

Sd/-
(L.P. SAHU)
Accountant Member

Dated : 29.03.2017

*aks/-

Copy of order forwarded to:

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| (1) <i>The appellant</i> | (2) <i>The respondent</i> |
| (3) <i>Commissioner</i> | (4) <i>CIT(A)</i> |
| (5) <i>Departmental Representative</i> | (6) <i>Guard File</i> |

By order

*Assistant. Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi*