

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, CHENNAI

श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री एस.एस. गोदारा, न्यायिक सदस्य केसमक्ष

BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI S.S. GODARA, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos.2818 & 2819/Mds/2014

M/s Life Shines Educational and
Charitable Trust,
4/15, 1st floor, Srinivasa Nagar
North Extension, T.V. Koil,
Trichy – 620 005.

v. The Assistant Commissioner of
Income Tax,
Circle I(2),
Tiruchirapalli.

PAN : AABTL 0241 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.S. Sriraman, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri Pramod Nangia, CIT

सुनवाई की तारीख/Date of Hearing : 26.02.2015

घोषणा की तारीख/Date of Pronouncement : 05.03.2015

आदेश / O R D E R

PER S.S. GODARA, JUDICIAL MEMBER:

These assessee's appeals arise from two separate orders of the Commissioner of Income Tax-I, Tiruchirapalli, both dated 26.09.2014 in C. No.6162E(95/83)/CIT-I/TRY/2013-14 denying

registration under Section 80G and 12AA of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee-Trust was created by a Trust Deed registered on 23rd August, 2012. The same was followed by a supplementary deed dated 19.09.2014. The assessee applied for registrations under Section 12AA and Section 80G of the Act on 24th March, 2014. The CIT has rejected its former petition as under:-

"1. The Trust herein known as 'LIFE SHINES EDUCATIONAL AND CHARITABLE TRUST', 4115, Srinivasa Nagar, North Extension, T.V. Kovil, Trichy-620 005 was created by a deed registered on 23/08/2012. This deed was further amended vide supplementary deed dated 19/09/2014. The main objects as per the deed are to establish, maintain, run develop, sponsor, schools, play schools, colleges, research institutions, universities, polytechnics, professional engineering institutions, technical, vocational, art, craft, science schools and colleges and generally all kinds of educational institution including teachers training institutes, B.Ed., Colleges and catering colleges / institutes; to promote to educate, to publish basic medical awareness among the general public primarily in the rural areas; to construct, start, run, maintain, takeover and develop hospital, polyclinic, health clinic, nursing homes: to establish, maintain, manage, run, develop, sponsor take over schools, colleges, research institutions in the field of medical sciences especially nursing, pharmacy, lab technology and all

paramedical courses; to relieve the poor, in indigent persons, irrespective of caste, creed, religion or nationality and make them to provide for their bare necessities of life; to construct, start, run maintain and take over and develop homes, feeding houses for the aged orphans, destitute, women, working women, creches; to provide assistance in cash or in kind to poor and deserving students to prosecute studies; to open and run schools for the blind, deaf, dumb, mentally retarded and other physically disabled persons etc.,

2. The Trust has furnished an application on 24/03/2014 in form 10A under section 12A(l)(aa) of the Income Tax Act, 1961 seeking registration u/s 12AA of the Act.

3. The applicant Trust was sent a detailed questionnaire vide this office letter dated 12/06/2014 calling for details/ clarifications/ evidences inter alia to prove the charitable nature of the stated objects of the Trust as well as genuineness of the activities carried out by the applicant. The Trust was asked to prove with the help of books of accounts, documents, papers and other necessary evidence that it did carry out the activities stated in the object clause of the Trust's deed and that these activities were charitable in nature as per definition U/s. 2(15) of the Income Tax Act, 1961. The reply filed by the Trust along with the detailed reports obtained from the lower authorities were perused.

4. The case was posted for hearing on 19/09/2014 in response to which Shri. S. Kalaimani, Authorised Representative of the Trust alongwith Shri. M.K. Gerald Selvan, Managing Trustee of the Trust appeared and the case was heard.

5. Enquiries made by the Assessing Officer and the perusal of the details furnished by the Trust revealed

that the Trust is only running a pre-school in the name of "Best Kidz" for pre-KG, LJ(G and UKG classes by collecting fees for imparting education to children. Perusal of the Income and Expenditure account furnished by the Trust revealed that the Trust has collected fees of Rs.91, 000 and Rs.3,86,500 for the year 2012-13 and 2013-14 respectively. The accounts do not show incurring of any expenditure towards 'Charity'. Though the trust was created towards achieving charitable objectives as narrated above, none of the charitable activities were carried out by the trust other than running the Kids school. No documentary evidence in proof of having carrying out any charitable activity were furnished by the Trust.

6. Though the objects for which the Trust was created are of charitable in nature, the Trust did not carry out any reasonable charitable activity ever since its creation in 2012 and the trust has no material to prove that the charitable activities are carried out. Therefore, the Trust does not satisfy the conditions for grant of registration u/s 12AA of the Income Tax Act, 1961.

7. I am therefore unable to grant registration to the Trust since the applicant has not complied the requirements of section 12AA of the Income Tax Act, 1961. It's application. for registration, therefore, is hereby rejected."

3. In view thereof, the assessee's latter plea of Section 80G registration also stands declined. Therefore, the assessee has preferred these two appeals.

4. A perusal of the files reveals that I.T.A. No. 2818/Mds/2014 challenges the CIT's order denying 80G

registration and I.T.A. No. 2819/Mds/2014 pertains to Section 12AA issue. It has come on record that the assessee's main objects are covered by the charitable purposes "education" u/s 2(15) of the Act. The CIT holds that the Assessing Officer has made certain queries and the assessee is found running a pre-school tiny tots, classes by collecting fees and imparting education. The hon'ble jurisdictional high court in the case of DIT v. Seervi Samaj Tambaram Trust (2014) 362 ITR 199 holds that initiation of charitable activity does not form subject of Section 12AA registration issue. The Revenue fails to bring any distinction on facts. Therefore we hold that the assessee's objects are covered by the charitable purposes 'education'. It is held entitled for Section 12AA registration. Rest of the issues of carrying on of charitable activities, application of income etc are left to be considered in appropriate proceedings. The assessee's appeal I.T.A. No. 2819/Mds/2014 seeking Section 12AA registration succeeds. I.T.A. No. 2818/Mds/2014 challenging the CIT's order refusing Section 80G registration is remitted back for decision afresh, as per law. It is allowed for statistical purposes.

5. I.T.A. No. 2819/Mds/2014 is allowed and I.T.A. No. 2818/Mds/2014 is allowed for statistical purposes.

Order pronounced on Thursday, the 5th of March, 2015 at Chennai.

sd/-
(A.Mohan Alankamony)
(ए. मोहन अलंकामणी)

लेखा सदस्य/Accountant Member
Member

sd/-
(S.S. Godara)
(एस.एस. गोदारा)

न्यायिक सदस्य/Judicial

चेन्नई/Chennai,

दिनांक/Dated, the 5th March, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT-I, Tiruchirapalli
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.