

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'C', New Delhi**

**Before : Shri H.S. Sidhu, Judicial Member And
Shri L.P. Sahu, Accountant Member**

ITA No. 2495/Del./2016

M/s. Tajinder Singh Memorial & Escorts Medicare Foundation, C/o Escorts Ltd., 15/5, Mathura Road, Faridabad (PAN-AACTT5374Q) (Appellant)	vs.	C.I.T. (Exemption) Chandigarh. (Respondent)
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Appellant by	Sh. R.M. Mehta, Advocate
Respondent by	Sh. Navin Chandra, CIT/DR

Date of Hearing	05.09.2017
Date of Pronouncement	07.09.2017

ORDER

Per L.P. Sahu, A.M.:

This is an appeal filed by the assessee against the order of Id. CIT(Exemption)-Chandigarh dated 23.12.2015, refusing to grant registration u/s. 12AA of the IT Act. The grounds raised read as under :

- 1. That the learned CIT(Exemptions) erred in declining to grant registration u/s 12AA of the Income-tax Act, 1961 merely on assumptions, presumptions and apprehensions, without appreciating the factual, legal and statutory position for grant of registration.*
- 2. That the learned CIT(Exemptions) failed to appreciate that all the conditions for registration of the appellant trust, mainly "to set up a medical centre in Faridabad for providing basic medical services on charitable basis", are fulfilled and accordingly the registration u/s 12AA should have been granted*

3. *That the learned CIT(Exemptions) erred in declining registration on irrelevant and frivolous grounds such as :-*

- *intention to set up a modern hospital, which is not expressed in any document(s) filed by the appellant;*
- *running of a hospital by the Escorts Medicare Foundation on commercial principles which is factually incorrect and without any basis;*
- *certain discretionary powers granted to the Board of Trustees in the Trust Deed, which in fact have been misread and misinterpreted; and*
- *futuristic assumptions on how the appellant could provide charitable services in the light of its objectives of setting up a multi-specialty 'hospital', without there being an iota of evidence on record, and there being no objective shown to run a 'hospital'.*

4. *That the learned CIT(Exemptions) erred in law in passing the order u/s 12AA without giving an opportunity of a personal hearing to the appellant in violation of the principles of natural justice. The order is liable to be set aside on this ground."*

2. The brief facts of the case are that the appellant applied for registration u/s. 12A on 08.06.2015. After going through various clauses of the objects of Trust, submitted by assessee and various other aspects thereof, the Id. CIT(Exemption) refused to grant the registration, *inter alia*, on the premise that the present contours of the expressed objects of the trust seeking exemption does not inspire any working towards charitable medical relief; that in the objects, there is emphasis simply to create a hospital subject to graduate it into multi-specialty centre in the course of time; that the medical relief in general to the poor and deserving section of society does not point

towards any altruistic intent of the Trust, which further stands garnished from the exclusive control of the settler and the Board of Trustees; that the trust's objects do not enunciate how their primary object of establishing a multi-specialty state of the art hospital lends itself to specific altruistic action; and that the contours of the proposal reeks of an arrangement that is purely commercial in nature.

3. The ld. AR of the assessee-trust, reiterating the grounds raised in this appeal, laid emphasis on ground No. 4 that the ld. CIT(E) erred in law in passing the order u/s 12AA without giving an opportunity of a personal hearing to the appellant in violation of the principles of natural justice. The ld. AR has also submitted note on proposed activities of the trust, copy of notice dated 02.12.2015 and reply of assessee dated 09.12.2015. He, therefore, urged for setting aside the order of the ld. CIT(E) and has also relied on various decisions on the issue.

4. The ld. DR, on the other hand, relied on the impugned order and submitted that since the objects of the assessee were not found charitable in nature but speak much about commercial intent of the Trust, the ld. CIT(E) was quite justified while refusing the registration to the assessee-trust. Once

the proposed activities of the Trust were not charitable but were having profit making motives, the assessee does not deserve registration u/s. 12AA of the IT Act.

5. We have considered the rival submissions and have gone through the entire material available on record. Addressing to the emphatic contention of the assessee regarding opportunity of hearing before the Id. CIT(A), we find on perusal of the impugned order that the Id. CIT(E) had issued a detailed notice to the assessee on 02.12.2015, requiring the assessee to furnish various details on 10.12.2015. In response to this notice, the assessee vide letter dated 09.12.2015 furnished the requisite details and its reply before the Id. CIT(E). The Id. CIT(E) after considering the details so furnished has proceeded to decide the application u/s. 12A. However, at this stage, the Id. AR of the assessee has urged that it should be given an opportunity of personal hearing before the Id. CIT(E) to substantiate its case for registration, on which the Id. DR has no objection. We, therefore, deem it appropriate in the interest of justice to remit the case back to the file of Id. CIT(E) for deciding the application of the assessee afresh expeditiously within a period of six months from the receipt of this order. Needless to say, the assessee shall be given an opportunity of personal hearing and the assessee, on the other hand, is

directed to appear before the Id. CIT(E), Chandigarh on 11.10.2017 for availing opportunity of personal hearing and the assessee shall not seek unnecessary adjournments in the matter. Accordingly, the appeal of the assessee deserves to be allowed for statistical purposes.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 07.09.2017.

Sd/-

(H.S. Sidhu)
Judicial member

Sd/-

(L.P. Sahu)
Accountant Member

Dated: 07.09.2017

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Copy of order forwarded to:

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

By order

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