

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER
AND
SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 983/Mum/2017

Bombay Paint Dealers Association,
C/o.Mansukhlal & Co.
Shri Building, Ranade Road,
Dadar(West), Mumbai 400 028
PAN: AADCB 8723H Appellant

Vs.

The Commissioner of IncomeTax
(Exemptions),
6th Floor, Piramal Chambers,
Parel, Mumbai -400 012. Respondent

Appellant by : Shri Sanjay R. Parikh
Respondent by : Shri Rajesh Damer

Date of hearing : 23/08/2017
Date of pronouncement : 10/11/2017

ORDER

PER G.S.PANNU,A.M:

The captioned appeal filed by the assessee is directed against the order of Commissioner of Income Tax(Exemptions)(in short 'the CIT') dated 13/12/2016, whereby the assessee's application seeking registration under section 12A of the Income Tax Act, 1961(in short 'the Act') has been rejected.

2. Briefly put, the relevant facts are that the appellant is a company incorporated under the provisions of the Companies Act, 1956, which is notified under section 25 of the Companies Act, 1956 as a company existing not for profit. The main objects of the assessee company are for the benefits of its members, who are paint dealers, associating for sharing of knowledge regarding taxation, trading, enhancement, showing ways to digitization in trading practices, use of technology in business, protecting rights of the paint dealers against the government policies and paint making companies, resolving the common problems of the members by collective endeavour, and to strengthen the unity among the members. Noticing the above, the CIT concluded that the activities of the assessee and its predominant objects do not fall within the purview of expression 'charitable purposes' contained in section 2(15) of the Act for the reason that the objects only cater to the organization of paint dealers and not for the general public at large. For the said reason, he did not find the assessee institution to be eligible for registration under section 12A of the Act.

3. Against the aforesaid decision of the CIT, assessee is in appeal before the Tribunal. At the time of hearing, the Ld. Representative for the assessee pointed out that the objection raised by the CIT was not justified, inasmuch as, in order to be eligible for registration it was not necessary that the objects should be for the benefit of whole of the public and that it would be sufficient if the objects are for the benefit of a section of the public. The Ld. Representative for the assessee pointed out that the aforesaid proposition is supported by the judgment of the Hon'ble Karnataka High Court in the case of Bangalore Urban and Rural

District co-operative Milk Producers Societies Members and Employees Welfare Trust Bangalore Milk Union Ltd. vs. Director of Income-tax (Exemptions), 382 ITR 528 (Karn).

4. On this aspect, the Ld. Departmental Representative has not referred to any contrary decision, but contended that even if the objection raised by the CIT is set-aside, yet the other requirements prescribed in section 12AA(1) of the Act will have to be examined for the purposes of grant of registration.

5. We have carefully considered the rival submissions and find that the point raised by the CIT to disentitle the assessee for registration under section 12A is directly in conflict with the ratio laid down by the Hon'ble Karnataka High Court (supra). The Hon'ble Karnataka High Court while dealing with the meaning of the expression 'charitable purpose' defined in section 2(15) of the Act, opined that the phrase 'any other object of general public utility' found in section 2(15) of the Act does not imply that the objects of an institution should be for the benefit of the whole mankind or of persons in a country or State; and, that even if the objects are for the benefit of a section of the public, the same can be construed as for 'charitable purpose'. In coming to such a decision, the Hon'ble High Court relied upon the principles laid down by the Hon'ble Supreme Court in the case of Ahmadabad Rana Catse Association v. CIT, 82 ITR 704(SC). In our considered opinion, the judgment of the Hon'ble Karnataka High Court, which is based on the principles laid down by the Hon'ble Supreme Court in the case of Ahmadabad Rana Catse Association (supra) is directly on the point before us and, therefore, we do not find substance in the objection of

the CIT that the assessee is disentitled from registration under section 12A of the Act merely because the objects are for the benefit of a section of the public namely, paint dealers. Thus, on this aspect the order of the CIT is set-aside.

6. Even otherwise, we find that assessee had submitted before the CIT that the objects of the assessee company be viewed in a broader way, inasmuch as, it results in ultimate gain to the end users i.e. the general public. The written submissions of the assessee in this regard have been reproduced by the CIT in para-5 of his order, and in such written submission, averments have also been made that assessee also seeks to resolve the grievance of the general public by protecting them against mal practices by any paint dealer, and also intending to do charity work by providing education, hospitalization expenses to poor and needy people of the society. Be that as it may, in our view, it would be in the fitness of things that the order of the CIT is set-aside and the matter is restored back to his file to enable him to address the application of the assessee afresh in the light of the requirements of section 12AA(1) of the Act as per law. We hold so. Needless to mention, the CIT shall provide a reasonable opportunity of being heard to the assessee before deciding the issue afresh, as per law.

7. In the result, appeal of the assessee is allowed, as above.

Order pronounced in the open court on 10/11/2017.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(G.S. PANNU)
ACCOCUNTANT MEMBER

Mumbai, Dated 10/11/2017
Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)

ITAT, Mumbai