

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.Nos.2543 & 2544/Mds/2016

M/s. KVT Educational Trust, Ward No.42, Door No.33, Kaja Street, Krishna Boundary, M.K. Puram, Madurai – 625 011. PAN: AABTK3731D	Vs	The Commissioner of Income Tax - I, Madurai
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri T. Banusekar, CA
प्रत्यर्थीकीओरसे/Respondent by	:	Shri D. Prabhu Mukunth Arunkumar, Jr. Standing Counsel

सुनवाईकीतारीख/Date of hearing	:	31.01.2018
घोषणाकीतारीख /Date of Pronouncement	:	05.02.2018

आदेश / ORDER

PER A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER:

These appeals by the assessee are directed against the orders passed by the Ld. Commissioner of Income Tax-I, Madurai both dated 30.10.2014 U/s.12AA and 80G(5) of the Act.

2. The assessee has raised several grounds with respect to its appeals towards rejection of registration U/s.12AA of the Act, however the crux of the issue is that the Ld.CIT has erred in not granting registration U/s.12AA of the Act.

3. Similarly the assessee has raised several grounds with respect to its appeal towards denying the approval of the Trust U/s.80G(5) of the Act, however the crux of the issue is that the Ld.CIT has erred in not granting the certificate of approval U/s.80G(5) of the Act.

4. The brief facts of the case are that the assessee is a trust registered with the Sub-Registrar No.IV, Madurai having its objects to establish educational institutions, spread education, to promote health camps and to promote literacy drives and similar ancillary activities. The assessee trust filed its application in form 10A on 16.06.2014 for obtaining registration U/s.12AA of the Act. The Ld.CIT on scrutiny observed that the assessee trust had indulged in collecting fees in advance and had further availed loan of Rs.1.2 crores for which no details was available in records and also had spent huge amount on advertisements. Therefore the Ld.CIT opined that the assessee trust was not engaged in charity activities but was operating on commercial basis. Thereafter relying in the decision of the Hon'ble Uttarakhand High Court in the case National Institute of Aeronautical Engineering Educational Society reported in 315 ITR 428 rejected the application filed for granting registration U/s.12AA of the Act. Consequentially the Ld.CIT refused to grant certificate of approval U/s., 80G(5) of the Act.

5. At the outset the Ld.AR submitted before us that the Ld.CIT without looking into the objects mentioned in the Trust Deed has simply refused to grant registration U/s.12AA of the Act and certificate of approval U/s., 80G(5) of the Act. The Ld.AR further submitted that the assessee Trust was carrying on charitable objectives during the past few years incurring deficit balance and only during to the current year there was some surplus from the operation of the Trust and hence had applied for granting registration U/s.12AA of the Act. He further relied in the decision of the Hon'ble Apex Court in the case Queen's Educational Society vs. CIT reported in 372 ITR 699. The Ld.DR on the other hand strongly argued in support of the order of the Ld.CIT and pleaded for confirming the same.

6. At the outset we find merit in the submission of the Ld.AR. At the time of granting registration U/s.12AA of the Act only the objects of the Trust needs to be perused at and if found to be charitable in nature as per the provisions of Section 2(15) of the Act, the Revenue is bound to grant registration. Further if the assessee seek certificate of approval U/s. 80G(5) of the Act, such approval shall be granted if there is no violation of the provisions of Section 80G(5) of the Act. It appears in the case of the assessee, the Ld.CIT without looking into these aspects had simply refused to grant registration U/s.12AA and issue certificate of approval U/s., 80G(5) of the Act citing flimsy reasons by

stating that the assessee has been collecting fees in advance, incurred expenditure towards advertisement and had not furnished details of the loan availed. Therefore in the interest of justice, we hereby remit back both the appeals of the assessee to the file of Ld.CIT with a direction to examine the objects of the assessee Trust and if found to be charitable as per the provisions of Section 2(15) of the Act grant registration U/s.12AA of the Act and also to examine the compliance U/s.80G(5) of the Act and if found to be in order grant certificate of approval under the provisions of Section 80G(5) of the Act. We also make it clear that while doing so the ratio set by the Hon'ble Apex Court in the decision of the case Queen's Educational Society vs. CIT reported in 372 ITR 699 shall be strictly followed.

7. In the result, both the appeals of the assessee are allowed for statistical purposes as indicated herein above.

Order pronounced on 5th February, 2018 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(Duvvuru RL Reddy)

न्यायिक सदस्य /Judicial Member

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 5th February, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |