

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.492(Asr)/2017

Assessment Year:

M/s Spring Dew Public School Vs. CIT(Exemptions),
G.T. Road, Nanaksar, CR Building, 5th Floor,
Jagraon-142026 Sector 17-E, Chandigarh-160017

PAN:AAETS2427F

(Appellant)

(Respondent)

Appellant by: Sh. Gaurav Sharma (Ld. Adv.)
Respondent by: Sh. Ajay Goyal (Ld. DR)

Date of hearing: 13.03.2018
Date of pronouncement: 28.03.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Assessee/Appellant, on feeling aggrieved against the order dated 30.05.2017 passed by the Ld. CIT(Exemption), Chandigarh u/s 12AA(1)(b)(ii) of the I.T. Act, 1961 (hereinafter called as 'the Act').

2. The assessee has raised the following grounds of appeal.

"1. That on the facts and the circumstances of the case, the order of Learned CIT is bad in law.

2. *That the Learned Commissioner of Income Tax has erred in holding that the Appellant has not been carrying out any Charitable Activity.*
3. *That the Learned Commissioner of Income Tax has erred in holding that the Appellant has not been providing quality educational services to the Society.*
4. *That, the Learned Commissioner of Income Tax has erred in holding that an Appellant cannot shift from one code (Section 10(23C) of the Act) to another code (Section 12AA of the Act).*
5. *That the Learned Commissioner of Income Tax has erred in holding that the Appellant is neither a Trust nor a Society nor a Section 25 Company.*
6. *That the Learned Commissioner of Income Tax has erred in holding that the Society and the School cannot be held to be coterminous and one and the same.*
7. *That the Learned Commissioner of Income Tax has erred in holding that the Appellant does not qualify for the Registration under Section 12AA of the Act.”*

3. The brief facts of the case are that in the instant case, an application u/s 10A was filed on dated 28.11.2016 seeking registration u/s 12A of the Act by revealing that society is an ongoing entity since 25.01.2000, which was declined by the Ld. CIT(E) vide its order impugned herein dated 30.05.2017. First reason for rejection of registration was that assessee after claiming exemption under code, shifted midway to another by defining the scheme laid in the Act. It is trite to say that once the law permits the assessee to claim exemption under different provision then the assessee cannot be compelled in law, to claim exemption under a particular section only, hence, we are

of the view that this reason of the Ld. CIT(E) is not correct and therefore, rejected.

Second reason of the Ld. CIT(E) is that the intention of the Appellant Society is amply clear that it's emphasis has been to create assets continuously under the garb of charity by precluding its income from tax anyhow. In our considered view, the authority, while considering the application for registration, has to satisfy himself about the object of the trust and genuineness of its activities in accordance with parameters laid down u/s 12AA of the Act. As in the instant case, the objects of the society are not in controversy, therefore, we do not find this reason as plausible because application of income can be subjected to assessment. We have in fact also verified this aspect, being factual, from the Assessee's balance sheets as on 31.03.2014 to 31.03.2016. The asset creation is normal, and the assets acquired are integral to the imparting of education (PB Pgs. 15, 29 & 35). The objection is, thus, considered whichever way, without substance.

Third reason of the Ld. CIT(E) is of paying less salary to the employees, which undermine/compromises the quality of education. In the instant case from the Paper Book filed by the appellant society, it reflects that appellant's/society's school is doing well in the education field and results are appreciable and the teaching staffs are more or less, adequately adjudicated having basic degrees/qualifications as required, therefore, in the absence of any material on record qua inferior quality of

education and/or compromises in the education, no adverse inference can be drawn and hence, the reason does not sound to be good and stands rejected.

Next reason for rejection by the Ld. CIT(E) is that the appellant society is neither a trust nor a society or a company u/s 25 of the Companies Act, however, the Ld. AR has drawn our attention to the copy of the registration certificate which is part of the Paper Book to the effect that the appellant society is duly registered under the Registration Society Act., hence, this reason also does not stand in the grant of registration.

Last reason of the Ld. CIT(E) is that the name of the appellant society and school run by it are the same and therefore, the society and the school cannot be held to be co-terminus and one of the same, this reason seems to be illogical and perverse because in the law as applicable to the instant case, there is no such embargo enshrined in law and/or declared by the higher Courts, therefore, this reason is also not tenable.

In the instant case, through show notice, the applicant was asked to file some documents as mentioned in para No.5 of the impugned order on 09.05.2017 which was responded by filing a part reply by the appellant on 09-05-2017, thereafter, Appellant was further requested to submit the copy of the lease agreement and salary details, which were also submitted by the appellant on 15.05.2017 and the Ld. CIT(E) while deciding the application, perused the reply submitted by the appellant in the

light of the provision of the Income Tax Act for grant of approval u/s 12A. It is not the case of the Revenue that the assessee did not co-operate with the proceeding and/or did not file relevant documents demanded/required by the Ld. CIT(E).

In the aforesaid fact, circumstances, analyzation, consideration and observations, we are of the considered opinion that the Ld. CIT(E) has wrongly declined the registration u/s 12AA of the Act , to the appellant herein which otherwise it is entitled to get, therefore, we direct the Ld. CIT(E) to grant the registration u/s 12AA of the Act to the appellant herein, henceforth, however can be subjected to condition, if any , the Ld. CIT(E), deems fit and proper to impose, in accordance of law.

4. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 28 .03.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:28.03.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) M/s Spring Dew Public School, Jagraon
- (2) The CIT(Exemption), Chandigarh
- (3) The CIT(Exemption), Chandigarh
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

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By order