

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य एवं

श्री एस जयरामन, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.885/Chny/2018

Liferay Foundation,
18, Grace Cottage, Padmanaba
Nagar, Civil Aerodrome Post,
Coimbatore-641 014.

Vs. The Commissioner of Income
Tax (Exemptions), 121,
M.G.Road, Chennai.

[PAN: AABTL 5693 H]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.S.Ramachandran, CA

प्रत्यर्थी की ओर से /Respondent by

: Mr.K. Jayaganesh, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.04.2018

घोषणा की तारीख /

Date of Pronouncement

: 24.04.2018

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.885/Chny/2015 is an appeal filed by the assessee against the Order of Commissioner of Income Tax (Exemptions), Chennai, in File No.CIT(E) 2(1094)/2017-18 dated 27.02.2018 against the refusal grant Registration u/s.12AA of the Act.

2. Shri K. Jayaganesh, JCIT, represented on behalf of the Revenue and Shri S.Ramachandran, CA, represented on behalf of the assessee.

3. It was submitted by the Ld.AR that the assessee is a Trust set up by a Trust Deed dated 22.05.2017, registered with the Sub-Registrar Office, Gandhipuram, on 22.05.2017. The assessee's Trust had applied for Registration u/s.12AA on 24.08.2017. It was a submission that clarifications had been sought from the assessee which was also responded to. It was a submission that subsequently, on account of the interpretation in regard to Clause-3(j) being one of the objects of the Trust, the Ld.CIT had held that the objects are to be carried out in India only and as the said object provided for carrying out its objects outside India it violated the provisions of Sec.11(1)(a). It was a submission that the assessee had also amended its Trust Deed as follows:

(j) To award scholarships or stipends to Indian students in India to enable them to continue their studies either in India or abroad and to award prizes to students for proficiency in any subject for language or sports or humanities;

The un-amended Clause read as follows:

To award scholarships or stipends in India to students to enable them to continue their studies either in India or abroad and to award prizes to students for proficiency in any subject for language or sports or humanities;

4. It was a submission that in fact, Clause-15(c) of the Trust Deed reads as follows:

(c) The Objects of the Trust shall be carried out only within India and that no activities of the Trust shall be carried out outside India.

5. Clause-5(c) - Specifically barred any activity to be carried out outside India. It was a submission that the assessee may be granted the Registration u/s.12AA as claimed.

6. In reply, the Ld.DR vehemently supported the order of the Ld.CIT.

7. It was a submission that the objects of the Trust provided for carrying out the activities outside India, the same was in violation of the provisions of Sec.11(1)(a) of the Act and consequently, the Registration had been rightly denied.

8. We have considered the rival submissions.

9. In reply to a specific query, as to whether, amendment which has been done to Clause-3(j) of the Trust Deed has been done through Court proceedings or not, in line with the Clause-11 of the Trust Deed at Page No.25, the Ld.AR submitted that the objects were amended only by General Body Meeting and not through Court proceedings. As the amendment has not been done through Court proceedings, the amendment to Clause-3(j) as done by the assessee would be invalid and cannot be considered. Consequently, the un-amended provision of Clause-3(j) is only considered for the purpose of adjudicating as to whether the assessee is entitled to Registration u/s.12AA of the Act. A perusal of the un-amended provision of Clause-3(j) of the Trust Deed shows that the assessee could award scholarships or stipends in India to students to enable them to continue their studies either in India or abroad. Nowhere in the said Clause does it say that the scholarships or

stipends are being provided abroad or that the objects are being executed outside the country. The scholarships or stipends are being awarded in India only. Even if the student desires to study abroad, it cannot be said that the assessee's object provided for application of the income of the Trust outside India. Further, a perusal of Clause-15(c) of the Trust Deed clearly bars any activity of the Trust to be carried on outside India. This being so, we are of the view that there is no violation of the provisions of Sec.11(1)(a) of the Act in respect of the Trust Deed of the assessee and consequently, the assessee is entitled to the Registration u/s.12AA of the Act. Consequently, Ld.CIT is directed to grant the assessee the benefit of Registration u/s.12AA as prayed for.

10. Though, we have granted the Registration u/s.12AA of the Trust, the violations in respect of Secs.11 to 13 are very much open for examination in the course of regular assessment.

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

Order pronounced in the Open Court on April 24, 2018, at Chennai.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: April 24, 2018.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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