

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल रॉव, न्यायिक सदस्य एवं श्री भागचन्द, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI BHAGCHAND, AM

आयकर अपील सं./ITA Nos. 66 & 65/JP/2018

Aryabhatta Welfare Organisation Plot No. 41-B, Jai Hanuman Colony, Ghooghra, Ajmer.	बनाम Vs.	Commissioner of Income-tax (Exemption), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAOCA 1980 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Sanjeev Jain (CA)
राजस्व की ओर से / Revenue by : Shri Varinder Mehta (CIT)

सुनवाई की तारीख / Date of Hearing : 03.05.2018.
घोषणा की तारीख / Date of Pronouncement : 11/07/2018.

आदेश / ORDER

PER VIJAY PAL RAO, J.M.

These two appeals by the assessee are directed against two separate orders of Id. CIT (Exemptions), Jaipur both dated 22.09.2017 passed under section 12AA(1)(b) and 80G(5)(vi) of the I.T. Act respectively. The assessee has raised the following grounds of appeal :-

ITA No. 66/JP/2018

1. The Id. CIT (Exemptions) has erred in law as well as on facts of the case by rejecting application seeking registration u/s 12AA of the I.T. Act, 1961.

2. The appellant craves leave to add, amend, alter, delete or modify any of the above grounds of appeal before or at the time of hearing.”

2. The assessee is a company registered under section 8 of the Companies Act, 2013. Thus the assessee was registered as a charitable company as per the certificate issued by the Registrar of Companies as well as Memorandum of Association of the company. The assessee applied for registration under section 12A(A) of the IT Act through on line application dated 31.03.2017 in Form No. 10A. The Id. CIT (Exemptions) asked the assessee to submit certain documents/explanation and also to produce original trust deed/memorandum of association for verification. The assessee filed the relevant details and reply to the notice issued by the Id. CIT (E). The Id. CIT (E) denied the registration under section 12AA on the ground that the assessee is not imparting any education but providing only coaching classes and vocational training etc. Thus on examination of the objects of the assessee company, the Id. CIT (E) came to the conclusion that the object clause contains the computer training, coaching classes, vocational training etc. which cannot be termed as systematic education as contemplated under the head 'education' in section 2(15) of the IT Act.

3. Before us, the Id. A/R of the assessee has referred to the objects clauses of the assessee and submitted that the computer training and vocational training as well as coaching is only one clause out of the 7 clauses of objects of the assessee and further it is part of the activities of skilled development. Therefore, by selecting one object clause of the assessee the Id. CIT (E) has denied the registration ignoring the over-all objects of the assessee company which are charitable in nature. He has

also relied upon the Certificate issued by the State Government and submitted that the assessee company is involved in formal education as approved by the Rajasthan Knowledge Corporation Ltd. The assessee is providing the education at a very nominal and concessional rate of Rs. 1200/- per student. He has relied upon the decision of Hon'ble Supreme Court in the case of CIT vs. Gujarat Maritime Board, 295 ITR 561 (SC) and submitted that the object of general public utility as per section 2(15) of the Act includes all the objects which promote the welfare of the general public. The Id. A/R has also relied upon the decision of Hon'ble Bombay High Court in the case of Bar Council of Maharashtra vs. CIT, 126 ITR 27 (Bom.) wherein the Hon'ble High Court has devolved upon the term 'any other object of general public utility' and held that State Bar Council is constituted for general public utility and the entire income of such body is entitled to exemption under section 11 of the IT Act. Similarly, the Hon'ble Supreme Court in the case of CIT vs. Andhra Chamber of Commerce, 55 ITR 722 (SC) has held that any other object of general public utility should be construed to include for promotion, protection, aiding and stimulating trade and commerce and industries. The Hon'ble Jurisdictional High Court in case of CIT vs. Jodhpur Chartered Accountants Society, 258 ITR 548 (Raj.) also held that to organize seminars, conferences and workshops to educate people on commercial laws, tax laws, etc. are objects of general public utility. Hence, the Id. A/R has submitted that the Id. CIT (E) has confined his finding only on the term 'education' as per section 2(15) of the Act without considering any other objects of general public utility.

3.1. On the other hand, the Id. D/R has relied upon the impugned order of the Id. CIT (A) and submitted that the main activity of the assessee is only coaching activity which cannot be considered as a systematic imparting of education as provided under section 2(15) or as any other objects of general public utility. Hence the application seeking registration was rightly rejected by the Id. CIT (E).

4. We have considered the rival submissions as well as the relevant material on record. The Id. CIT (Exemptions) while rejecting the application has considered the object no. 3 in the objects clauses of the Memorandum of Association in para 4 of the impugned order as under :-

Object No.	Description
3.	To promote informal education, coaching classes, giving vocational training, faculty training, skill development and to run Management and Computer training institutions.

Whereas the Memorandum of Association of the assessee contains as many as 7 objects as under :-

- " 1. To set up hospitals, medical colleges, nursing homes and healthcare centres and provide, encourage, initiate or promote facilities for the discovery, improvement or development of new methods of diagnosis, understanding and prevention and treatment of diseases.
2. To promote formal education, to set up and carry on educational institution like school, college, university and to carry on courses in all subjects or branches of engineering, science medical, commerce, industrial, commercial, arts, management and any other faculty of education.
3. To promote informal education, coaching classes, giving vocational training, faculty training, skill development and to run Management and Computer training institutions.

4. To promote commerce, arts, science, sports, education, research, social welfare, charity.
5. To rehabilitate victims of natural disaster, to assist physically and mentally disabled persons, old aged peoples, children, women, persons from economically weaker sections of the society, without any distinction of religion, caste and creed.
6. To achieve financial sustainability, viability and self reliance through its own activities.
7. To reinvest any incidental surplus into growth and strengthening of its social and humanitarian projects, through itself or by transfer to any other non-profit organization, institution, association, company, trust etc. situated in India or outside India.

Thus it is manifest from the objects of the assessee company that the pre-dominant objects are to set up hospitals, medical colleges, nursing homes, health centres etc. further to promote formal education and to set up and carry on educational institutions like school, colleges, university etc. The Id. CIT (E) has picked up only object no. 3 for rejecting the application of the assessee without considering the other objects of the assessee. We also find merit and substance in the contention of the Id. A/R of the assessee that even if the said clause of the object may not be falling in the term 'education', the Id. CIT (E) has not considered the same whether it is falling in the term 'any other objects of general public utility' as per the provisions of section 2(15) of the IT Act. Hence we find that the impugned order of Id. CIT (E) is passed by considering only one clause out of the 7 objects of the assessee. Further, it is also required to be considered as to what activities are being carried out by the assessee all through these years and, therefore, if the assessee has restricted only a few activities and not covering all the objects as per the object

clauses then the application of the assessee has to be decided in the light of the alternative plea of the assessee that the same can be considered as any other objects of general public utility. The assessee has placed reliance on various decisions which are relevant on the point. Accordingly, in view of the above facts and circumstances of the case, we set aside the impugned order of Id. CIT (E) and remit the matter back to the record of the Id. CIT (E) for deciding the same afresh after giving a proper opportunity of hearing to the assessee and in the light of the above observations of the Tribunal.

ITA No. 65/JP/2018 :

5. The assessee has raised the following grounds of appeal :-

- “ 1. The Id. CIT (Exemptions) has erred in law as well as on facts of the case by rejecting application seeking exemption u/s 80G(5)(vi) of the I.T. Act, 1961.
2. The appellant craves leave to add, amend, alter, delete or modify any of the above grounds of appeal before or at the time of hearing.”

6 The Id. CIT (E) has declined to grant approval under section 80G in view of the rejection of the application for registration under section 12A(A). Therefore, the impugned order passed by the Id. CIT (E) is consequential to the order of denying the registration under section 12AA. We have set aside the matter to the record of Id. CIT (E) for fresh adjudication in the case of registration under section 12AA. Accordingly, the issue of approval under section 80G is also set aside to the record of the Id. CIT (E) being consequential in nature.

7. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 11/07/2018.

Sd/-

(भागचन्द)
(BHAGCHAND)

लेखा सदस्य / Accountant Member
जयपुर / Jaipur
दिनांक / Dated:- 11/07/2018.
das/

Sd/-

(विजय पाल राँव)
(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Aryabhata Welfare Organization, Ajmer.
2. प्रत्यर्थी / The Respondent-The CIT (Exemptions), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File {ITA No. 66 & 65/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar