

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", NEW DELHI**

**BEFORE SH. G.D. AGRAWAL, PRESIDENT
AND
SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No.4605/Del/2014
(Assessment Year:)**

Shiv Educational Society V& P.O. Dehra Semalkha Panipat PAN : AAGTS4906F	Vs.	CIT Karnal
Appellant		Respondent

Assessee by : Sh. K.L.Aneja, ITP
Revenue by : Sh. K.Jewani, Sr.DR
Date of hearing : 19.07.2018
Date of pronouncement : 31.07.2018

ORDER

PER SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER :

This appeal is preferred by the assessee against order dated 28.07.2014 passed by the Ld. Commissioner of Income Tax, Karnal wherein vide the impugned order the Ld. CIT has refused grant of registration to the assessee society u/s 12A of the Income Tax Act, 1961 (hereinafter called as the 'Act').

2. The assessee had filed application for registration u/s 12AA of the Act and the assessee was required to furnish certain documents by the Ld. CIT. Thereafter, after perusing the documents filed, the Ld. CIT opined that the assessee could not specify as to what kind of education the teachers were expected to impart. The Ld. CIT also noted that in the dissolution clause it was noted that the property of the society was to be handed over to other trust/s having similar aims and objectives in the event of dissolution. The Ld. CIT also noted that the society had executed a gift deed on 01.06.2012 and transferred a certain piece of land to Modern College of Education for a notional consideration of Rs. 8,56,250/-. The Ld. CIT was of the opinion that the asset had been transferred without any consideration in form of the gift. Apart from this, the Ld. CIT had also called for a report from the Assessing Officer regarding the activities of the assessee society and the Assessing Officer had reported that the activities of the assessee society were not in accordance with the objects in the Memorandum of Association. The Ld. CIT also noted that in assessment years 2011-12, 2012-13 and 2013-14, interest free advances had been given to members of the society which was in violation of provisions of section 13 of the

Act. The Ld. CIT proceeded to refuse the benefit of registration u/s 12A to the assessee society.

3. Both the parties argued at length.

4. Having heard the Ld. Counsel as well as the Ld. CIT DR on the issue, we note that Modern College of Education is part of the assessee society and the society runs this college. This fact is duly mentioned in the assessment order for assessment year 2013-14. Therefore, it cannot be said that the society has transferred its asset to some other entity without consideration. It is also seen that the assessee society has advanced less than 5% of its gross receipts to its members and the same is evident from the chart filed before us and available on paper book page 5 wherein the gross receipts for assessment years 2011-12, 2012-13 and 2013-14 are indicated. Thus, the provisions of section 13 of the Act do not stand violated. We also note that the Ld. CIT has refused registration on the ground that the genuineness of the activities would not be satisfactorily proved by the assessee. We have perused the Memorandum of Objectives of the assessee society and note that the Ld. CIT has not given any specific finding regarding the non-genuineness activities of the trust vis-à-vis the objectives as

mentioned in the Memorandum of Association but has rather relied on the report of the Assessing Officer in this regard. On the facts of the case and after duly considering the averments of both the parties, it is our considered opinion that the matter should be re-examined by the Ld. CIT. Accordingly, we restore the issue to the office of the Ld. CIT with the direction to reconsider the assessee's application, keeping in mind our observations in the preceding paragraphs and pass appropriate order as per law after giving due opportunity to the assessee.

5. In the final result, the appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 31st July, 2018).

Sd/-

(G.D.AGARWAL)

PRESIDENT

Date: 31.07.2018

Binita

Copy of order to: -

- 1) The Appellant;
 - 2) The Respondent;
 - 3) The CIT;
 - 4) The CIT(A)-, New Delhi;
 - 5) The DR, I.T.A.T., New Delhi;
- True Copy

Sd/-

(SUDHANSHU SRIVASTAVA)

JUDICIAL MEMBER

By Order

ITAT, New Delhi