

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "F" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA.No.2647/Del./2015

Rastriya Saksharta Mission Innovative Technologies Education, Khesra No.19/11, Lane-20, A2 Block, West Sant Nagar, Burari, Delhi – 110 084. PAN AABTR4482Q	vs	The CIT (Exemptions), E-2, 26 <sup>th</sup> Floor, Pratyaksh Kar Bhawan, Jawaharlal Nehru Marg, New Delhi – 110 002.
(Appellant)		(Respondent)

For Assessee :	Shri A.K. Srivastava, FCA
For Revenue :	Smt. Shefali Swaroop, CIT-DR

Date of Hearing :	10.09.2018
Date of Pronouncement :	01.10.2018

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by assessee has been directed against the Order of the Ld. CIT(Exemption), New Delhi, Dated 25.02.2015 under section 12AA of the I.T. Act, 1961.

2. Briefly the facts as noted in the impugned order are that the Assessee is a Trust formed on 22.04.2009 with the

main objective to organise vocational and educational programs. The assessee filed application for registration under section 12AA along with documents. The Ld. CIT(E) examined the documents filed by the assessee. The Ld. CIT(E) noted that on perusal of activities of the Trust, it reveals that Assessee Trust is running a large number of I.T. Education Centres all over India under the name and style of “Rastriya Saksharta Mission I.T. Education”. The assessee-trust is running a large number of courses of duration of 3-12 months e.g. diploma in computer education; diploma in web and designing applications; diploma in hardware and networking, etc..It is also providing courses in English language both written and spoken. As per the details gathered from the website of the Trust it emerges that all these courses are being run on commercial basis and heavy fees charged for the courses. The activity of the assessee falls in the last limb i.e., advancement of any other object of general public utility. The Ld. CIT(E) noted that it is a case of service provider and service seeker. Thus, the activities of the Assessee-Trust are in the nature of

business for which fees is being charged. The gross receipts of the Assessee-Trust for the period ending as on 31.03.2014 are Rs.1.14 Crores. The Ld. CIT(E), therefore, noted that Assessee-Trust is not entitled for registration under section 12 of the I.T. Act. It is also noted that Shri Pravin Mehrotra is the settlor of the Assessee-Trust, have been disassociated with its activities by giving disclaimer on the website. It was, therefore, noted that it is a very strange thing to disassociate the settler itself from the activities of the Assessee-Trust. It was also noted that later on Shri Pravin Mehrotra resigned from the Trust and another one has taken as a settler of the Trust. An Inspector was deputed to visit the Trust of the assessee at Lajpat Nagar-II, New Delhi who has reported that the premises of the Assessee-Trust is found locked. The Ld. CIT(E), therefore, noted that activity of the Assessee-Trust are bogus. An explanation of assessee was called for, but no reply has been filed. It is also noted that Trust Deed is not on conformity of the terms of Public Charitable Trust. The term of "Managing

Trustee” and the “First Trustee” is for their respective life-time. Therefore, benefit of Section 11 cannot be given. As per Clause-15 of the Trust Deed, the Board of Trustees shall follow instruction given by the donor who makes substantial contribution towards the objects of the Assessee-Trust. It is also noted in the Trust Deed that it may carry-out activities outside India also. The Ld. CIT(E), therefore, held that the Assessee-Trust trust is neither genuine nor carrying on genuine charitable activity. Therefore, registration application under section 12AA of the Assessee-Trust was rejected.

3. We have heard the Learned Representatives of both the parties and perused the material available on record. Learned Counsel for the Assessee submitted that Assessee-Trust is registered with Sub-Registrar, Delhi. Copy of the Trust Deed is filed in the paper book. The main objects of the Assessee-Trust is vocational and educational programmes. It is running large number of I.T. Education Centres all over India. The Assessee-Trust is running a large number of

courses of duration of 3-12 months i.e., diploma in computer education; diploma in web and designing applications; diploma in hardware and networking also. It is also providing courses in English language both written and spoken. The Ld. CIT(E) while deciding the application for registration, under section 12AA of the I.T. Act, is only required to satisfy himself about the objects of the Trust or Institution and genuineness of the activities. The Ld. CIT(E) is not required to go into unnecessary details which can be examined by the A.O. at assessment stage. The Ld. CIT(E) gathered some information from website of the Assessee-Trust but did not specify what is the amount of fees charged by assessee and what is the evidence to show that assessee run on commercial basis. The observations of the Ld. CIT(E) are totally untrue, vague and not supported by any evidence. Since the activities of the assessee are vocational and educational programmes, therefore, the last clause that it is meant for advancement of any other object of general public utility would not apply. The observation of the Ld. CIT(E) are without any basis. Charging

of fees could not be the basis to prove that Assessee-Trust is carrying on business. The Assessee-Trust is not meant to earn profits. The Ld. CIT(E) relied upon cases of which, citation is wrong. The resignation of the settlor is of no consequence to run Assessee-Trust. No details have been given as to when Inspector has visited the premises of the Assessee-Trust at Lajpatnagar-II, New Delhi. It is not always necessary that premises of Assessee-Trust are remain open. No enquiry have been made from any other person. The Assessee-Trust has been operating from other premises and this fact is mentioned by the Ld. CIT(E) in the order itself. He has referred to PB-45 to 72 which are the correspondence with the Ministry of Rural Development in which Assessee-Trust has been associated with Special Project under SGSY for Placement Linked Skill Development of Rural BPL youth through PPP model in 3 states i.e., Jharkhand, Madhya Pradesh and Maharashtra and Assessee-Trust has been doing the work as assigned by the Government of India on I.T. Sector i.e., for education only. No business have been done by the

Assessee-Trust. The address where Inspector has visited is address of the settler and Assessee-Trust received notice at the same address and filed the replies. Copy of the same are filed at pages 21 and 22 of the paper book. According to the Trust Deed, activities of the Assessee-Trust will be carried-out within India and outside India with requisite permission of respective Governments following Law of the land. He has submitted that till date no activity have been carried-out outside by the Assessee-Trust. He has relied upon decision of Hon'ble Allahabad High Court in the case of Hardayal Charitable & Educational Trust vs. CIT-II (2013) 355 ITR 53 (All.) in which the Hon'ble Allahabad High Court held that *"at this stage on grant of registration only the genuineness of the object is to be tested and not the activities which have not commenced."* He has, therefore, submitted that Assessee-Trust is entitled for registration under section 12AA of the I.T. Act, 1961.

4. On the other hand, Ld. D.R. relied upon the impugned orders of the authorities below and relied upon the

Order of ITAT, Amritsar Bench, Amritsar in the case of G.D. Kavita Singla Charitable Trust, Amritsar vs. CIT-II, Amritsar in ITA.No.594/ASR./2013, Dated 03.02.2014, in which the Tribunal held that *“there should be some practical activities which satisfy the authority concerned before granting the registration under section 12AA of the Act”*. The Ld. D.R. also relied upon the Judgment of Hon’ble Allahabad High Court in the case of CIT vs. A.R. Trust (2017) 86 taxmann.com 6 (Alld.) in which it was held that *“the Tribunal has no jurisdiction in law to direct for Registration of Trust without there being satisfaction recorded by registering authority as contemplated by section 12AA”*.

5. We have considered the rival submissions. Section 12AA of the I.T. Act provides that *‘Pr.CIT or CIT on receipt of an application for registration of a trust or institution under section 12A, shall after satisfying himself about the objects of the trust or institution and the genuineness of its activities, shall pass an order in writing registering the trust or institution, shall, if not so*

*satisfied, pass the order in writing refusing to register the trust or institution.*’ Therefore, according to the above provisions, at the time of grant of registration or refusing to grant registration to a trust or institution, the Ld. CIT(E) shall satisfy himself about the objects of the trust and genuineness of its activities. The Hon’ble Allahabad High Court in the case of *Hardayal Charitable & Educational Trust vs. CIT-II (supra)*, held that *“at this stage of enquiry under section 12AA only the genuineness of the objects is to be tested and not the activities which have not commenced.”* In the present case, the Ld. CIT(E) noted that assessee produced the Trust Deed and the documents, which have been examined by him and on perusal of the activities of the Assessee-Trust, it reveals that it is running large number of I.T. Education Courses all over India under the name and style of “Rastriya Saksharta Mission I.T. Education”. The Assessee-Trust is running large number of courses i.e., diploma in computer education; diploma in web and designing applications; diploma in hardware and networking, etc. It is, therefore, clear that Ld. CIT(E) was

satisfied that Assessee-Trust has been running several educational programmes at different places. Therefore, there is no question of refusing to grant registration to assessee on the basis of report of Inspector who visited Lajpatnagar property. Though the website of the Trust was referred to in the Order, but, no material has been produced on record as to how much heavy fees have been charged by the Assessee-Trust. The Trust Deed shows that Assessee-Trust has primarily exists for Educational and Vocational programmes. The assessee also produced several material on record to show that assessee engaged by Ministry of Rural Development for Placement Linked Skill Development of Rural BPL youth in three States. Thus, the Assessee-Trust has been providing I.T. Education through different courses which is also admitted in the impugned order. Thus, the objects of the Assessee-Trust are 'Education' in nature and Assessee-Trust carrying on genuine activities of providing education. Other points raised by the Ld. CIT(E) in the impugned order are not relevant to the enquiry conducted at the stage of grant of registration under

section 12AA of the I.T. Act. No evidence or material has been brought on record as to how Assessee-Trust has been doing business activities. The findings of the Ld. CIT(E) are vague and are not substantiated through any evidence or material on record. The removal of the Trustee or directions given by the donor etc., are not relevant at this stage and could be considered by the A.O. at the time of considering the applicability of Section 11 of the I.T. Act. In view of the above facts, the decisions relied upon by the Ld. D.R. would not support the case of the Revenue. In the case of A.R. Trust (supra), the Hon'ble Allahabad High Court referred the matter to the Ld. CIT(E) for recording the satisfaction in the light of decision of the Tribunal and to pass appropriate order. In view of the above discussion, we do not find any justification for Ld. CIT(E) to reject application for registration under section 12AA of the I.T. Act. In this view of the matter, we set aside the impugned order and restore the matter in issue to the file of Ld. CIT(E), New Delhi, with a direction to pass appropriate order under section 12AA of the I.T. Act to grant registration to

the Assessee-Trust under section 12AA of the I.T. Act within one month from the date of the Order. Accordingly, appeal of the assessee is allowed.

6. In the result, appeal of Assessee is Allowed.

Order pronounced in the open Court.

Sd/-  
(L.P. SAHU)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 01<sup>st</sup> September, 2018

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "F" Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches :  
Delhi.