

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: 'F', NEW DELHI**

**BEFORE SHRI SMT. BEENA A PILLAI, JUDICIAL MEMBER
AND SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA Nos. 6115 & 6116/Del/2016

AY: Nil

Shri Rani Sati (Mangaliwala) Trust Society, Sector-16-17, Opposite Civil Line, Hisar. AAFAS0952F	vs.	CIT(Exemptions) C.R. Building, 5 th Floor, Sector-17E, Chandigarh.
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(Appellant)

(Respondent)

Assessee by : Sh. K. Sampath, Adv. & Sh. V. Rajkumar, Adv.
Department by : Smt. Sulekha Verma, CIT(DR)

Date of Hearing : 05/11/2018

Date of Pronouncement: 30/11/2018

ORDER

PER BEENA A PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 30/09/16 passed under section 12 AA, of the Act as well as section 80 G(5)(vi) of the Act by Ld.CIT (Exemption) on following grounds of appeal:

ITA No. 6115/Del/2016 (against order under section 12AA)

“On the facts and in the circumstances of the case and in law the order of the Ld. Commissioner of Income Tax (Exemptions), Chandigarh rejecting the application for Registration u/s 12AA of the Income Tax Act, 1961 is arbitrary, misconceived, fallacious and illegal and having been done on imaginary, fictitious and unsubstantiated grounds must be quashed with further directions to grant the registration as sought.”

ITA No.6116/Del/2016 (against order under section 80 G (5) (vi))

“On the facts and in the circumstances of the case and in law the order of the Ld. Commissioner of Income Tax (Exemptions), Chandigarh rejecting the application for Registration u/s 80G(5)(vi) of the Income Tax Act, 1961 is arbitrary, misconceived, fallacious and illegal and having been done on imaginary, fictitious and unsubstantiated grounds must be quashed with further directions to grant the registration as sought.”

2. Brief facts of the case are as under:

Assessee is a society and filed application for registration under section 12A of the Act on 30/03/16. Ld.CIT(Exemption) accordingly, issued notice for filing of copies of bye-laws and various other details as called for. Assessee filed the aims and objectives of society from wherein Ld.CIT (Exemption) observed that, aims and objectives of society were to open, run, establish or finance, assist and contribute to the maintenance of any social projects including hospitals, Dharamshalas, old-age homes, orphanages or any other institution for persons having physical or mental disability and/or having similar objects, to provide financial help, for the marriage of poor girls etc. Ld.CIT was of the view that, activities mentioned do not connote any specific limb of activity pursued by the society as they are general in nature.

3. Ld. CIT further issued show-cause notice in regard to property shown as held by assessee trust since ages. Ld.CIT observed that hospital was constructed in name of Smt. Reshma Devi Goyal Netra Hospital, and was in fact been constructed by another society with name of M/s ASPAM Foundation. On query being raised by Ld.CIT(E), it was submitted that assessee was not

having any sufficient funds and M/s ASPAM spent 85% of its receipts for construction of hospital building on land owned by assessee. Dissatisfied with submissions advanced by assessee, Ld.CIT(E) observed that genuineness of activities is not established in present case and, accordingly, rejected eligibility for registration under section 12AA of the Act. He also rejected the application of assessee u/s 80G(5)(vi) of the Act.

4. Aggrieved by order of Ld. CIT(E), assessee is in appeal before us now.

5. Ld.Counsel submitted that only reason for rejecting application u/s 12AA of assessee was on basis of land, on which hospital has been constructed by M/s ASPAM Foundation. He submitted that admittedly, said hospital was run and managed by M/s ASPAM Foundation and activities are being claimed by M/s ASPAM Foundation, as charitable in nature. Ld.Counsel submitted that, as society was not having sufficient funds, it requested M/s ASPAM Foundation to help society for running hospital. On acceptance of request, M/s ASPAM Foundation incurred expenditure and claimed exemption in return of income. Ld.Counsel submitted that assessee in present case provided land and did not claim any expenditure on account of construction activity undertaken by M/s ASPAM foundation. He submitted that M/s ASPAM Foundation helped in achieving object of society. Ld. Counsel submitted that during Financial Year 2013-14 an amount of Rs. 20.46 Lakhs has been used for addition in buildings, except a small amount of Rs. 12,500/- that has been utilised for addition in stores. It has been further submitted that approximately Rs.10 lakhs has been

utilised for paying salaries to staff, audit fees, general expenses and other charitable expenses.

5.1. Ld. Counsel submitted that apart from hospital activity, assessee has built multipurpose hall in name of “Satsang Bhawan” which is used by general public. Apart from these, no other expenses were required to be incurred for use of this hall and, therefore, it has been claimed as Revenue expenses.

6. Ld.Counsel then submitted that during A.Y. 2015-16 plant and machinery amounting to Rs. 14.24 lakhs was shown under the head “Assets”, which were used for construction of building. These assets are used for charitable purposes and hence, are charitable in nature.

7. Ld.Counsel submitted that land in question belonged to Dadi Rani Sati Mandir, wherein public at large makes prayers. He submitted that deity “Sati Dadi” belongs to Goyal Gotra of Mangli Village. He submitted that hospital building is constructed on land owned by society trust, upon mutual agreement between assessee and M/s ASPAM Foundation. It has been submitted by Ld.Counsel that M/s ASPAM foundation helped in achieving objectives of assessee, by helping them in constructing hospital on land owned by assessee for benefit of public at large.

8. On the contrary, Ld.Sr.DR submitted that land was belonging to trust which was acquired by Society in 2010. He submitted that acquisition of land after it was de-notified from HUDA by private society itself is inherently wrong. Ld. Sr. DR submitted that assessee has not proved how the takeover was effectuated and whether trust was exempted entity duly registered under Societies Registration Act. Ld. Sr.DR further

submitted that prior to takeover by HUDA, Mandal Trust filed a case against 76 people, neither name of trust has been provided on file nor any evidence has been adduced that state litigation has attained finality and 76 people who had arraigned against earlier, have accepted decision.

9. It was contended by Ld. Sr. DR that after taking possession of temple land, assessee allowed another society to construct building of hospital, that is otherwise claimed as being run by M/s ASPAM Foundation. He, thus, placed reliance upon order passed by Ld.CIT(E).

10. We have perused the submissions advanced by both sides in the light of records placed before us.

11. It has been submitted by Ld.Counsel placing reliance upon paper book filed before us that deed was executed by other trust in 1983 where land was taken for construction of temple. Later on said land was acquired by Haryana Urban Development Authority (HUDA) for development of sector 16/17, Hissar, which was returned to trust after public outreach, as it was challenged before HUDA that, this land was pertaining to temple and should not be used for development activities. It has been submitted that after public anger said land was returned to trust and after reacquisition of land, society was formed under name of Sh.Rani Sati Dadi Mangliwala Trust, in which said land has been taken as property, and activity in form of temple and Satsang are being performed. Apart from these activities, there was ample land which was used for construction of hospital in name of Smt. Reshma Devi Goyal Netra Hospital. It has been submitted that during course of proceedings hospital building has in fact been

constructed by another society with name M/s ASPAM Foundation. This trust is also registered at Delhi having Registration Certificate under section 12A and members of M/s ASPAM Foundation are members of applicant society as well. It has been submitted by Ld. Counsel that assessee was not having sufficient fund and M/s ASPAM Foundation spent approximately 85% of its receipts which was utilised for construction of hospital building on land owned by assessee. It has been emphasised that affairs of hospital are being reflected in accounts of M/s ASPAM Foundation.

12. Thus, we observe that M/s ASPAM Foundation claimed exemption in their return of income, whereas, land has been provided by assessee, who has not claimed any expenditure on account of construction activities. Thus in our considered opinion M/s ASPAM Foundation helped in achieving social objective of assessee. Further in respect of land, we observe from paper book that the litigation against 76 people has attained finality vide order dated 12.10.99 passed by Civil Judge (J. Division) Hissar).

13. Ld.CIT(E) does not dispute M/s ASPAM Foundation to be charitable trust. Assessee during year under consideration constructed Satsangh Bhavan and Temple which has not been disputed by Ld. CIT(E). These forms part of balance sheet as on 31/03/15 placed at page 62 of paper book.

Thus in our considered opinion assessee has achieved its objective of trust through M/s ASPAM Foundation. Merely because a business group and Directors of company are members of society, does not dilute nature of society being a trust. We

therefore are of considered opinion that, assessee deserves to be granted registration under section 12 AA of the Act.

14. We accordingly set aside this issue back to Ld.CIT(A) for granting registration to assessee.

15. Accordingly ground raised by assessee in this appeal stands allowed.

ITA No. 6116/Del/2016

16. This appeal pertains to rejection of registration under section 80 G (5) (VI) of the Act.

17. It is observed that Ld. CIT (A) rejected application of assessee on the basis of denial of registration under section 12AA of the Act.

18. As in foregoing paragraphs, we have directed Ld. CIT (E) to grant registration to assessee under section 12AA of the Act, present appeal becomes consequential in nature.

19. We thus set aside this appeal also to Ld.CIT (A) to allow the application of assessee as per law.

20. Accordingly the ground raised by assessee stands allowed.

21. In the result both appeals filed by assessee stands allowed.

Order pronounced in the open court on 30/11/2018

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(BEENA A PILLAI)
JUDICIAL MEMBER**

Dt. 30th November,2018

- Gmv

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

- TRUE COPY -

By Order,

ASSISTANT REGISTRAR
ITAT Delhi Benches

	Date
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Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	