

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH  
BENCH 'B', CHANDIGARH**

**श्रीमती दिवा सिंह, न्यायिक सदस्य एवं डा. बी.आर.आर. कुमार, लेखा सदस्य  
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R.KUMAR, AM**

आयकर अपील सं./ITA No. 1398/CHD/2016

M/s World Leaders Organization, Plot No. 70, Sector 53, DLF Golf Course Road, Gurgaon.	बनाम VS	The CIT (Exemption), Chandigarh.
स्थायी लेखा सं./PAN No: AABCW5385L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Rohit Jain & Ms. Tejasvi Jain  
राजस्व की ओर से/ Revenue by : Shri Ram Mohan Singh, CIT-DR

सुनवाई की तारीख/Date of Hearing : 10.10.2018  
उद्घोषणा की तारीख/Date of Pronouncement : 26.11.2018

**आदेश/ORDER**

**PER DIVA SINGH**

The present appeal has been filed by the assessee assailing the correctness of the order u/s 12AA of the Income Tax Act dated 28.10.2016 of CIT (Exemptions) Chandigarh on the following grounds:

1. *That the Commissioner of Income Tax (Exemption) ['CIT(E)'] erred on facts and in law in denying registration to the appellant under section 12AA of the Income Tax Act, 1961 ('the Act') vide order dated 28.10.2016.*
2. *That the CIT(E) erred on facts and in law in holding that the objects of the appellant are not charitable in nature within the meaning of section 2(15) of the Act.*
  - 2.1 *That the CIT(E) failed to appreciate that the objects are charitable in nature as the appellant is a non-profit company registered under section 8 of the Companies Act, 1956.*
  - 2.2 *That the CIT(E) erred on facts and in law in holding that genuineness of the activities carried out cannot be corroborated with the objects of the appellant.*
  - 2.3 *That the CIT(E) erred on facts and in law in drawing adverse inferences against the activities of the appellant merely based on conjectures and surmises.*
  - 2.4 *That the CIT(E) erred on facts and in law in not examining the objects of the appellant as per the mandate of section 12A/12AA of the Act.*
3. *That the CIT(E) erred on facts and in law in not appreciating that the conferences organised by the appellant was in accordance with the objects as specified in the Memorandum of Association.*

4. *That the CIT(E) erred on facts and in law in holding the activities/objects of the appellant being not charitable due to alleged contravention of FCRA regulations.*

2. The ld. AR inviting attention to the impugned order submitted that the assessee is a Section 8 company and had made an application in Form 10A seeking registration u/s 12A. The aims and objects of the assessee have been addressed by the CIT in para 2. However, without confining himself in terms of the judicial precedent in only examining the aims and objects of the society, the CIT (Exemptions) proceeded to consider the issue beyond the same and ignoring the explanation of the assessee, denied the exemption. Reliance was placed upon ICAI Accounting Research Foundation & Ors. Vs DGIT (E) 321 ITR 73 (Del) for the proposition that the company which is formed u/s 8 of the Companies Act ( which is erstwhile equivalent to Section 25 of the Companies Act) is entitled to claim its object to be charitable purposes. Inviting attention to Paper Book page 1 to 2 which is copy of the application filed, Paper Book page 3 being the certificate of incorporation dated 06.06.2014 and inviting attention to the copy of the Memorandum of Association and Articles of Association, it was submitted, Paper Book page 4 would show the objects for which the company is established as addressed in clause (iii)(A). Inviting attention to the decisions of the jurisdictional High Court in the case of CIT v. O.P Jindal Global University : 219 Taxman 70 and the case of Surya Educational & Charitable Trust : 355 ITR 280, it was his submission that at the time of grant of registration, the legal precedent is that only the aims and objects need to be considered. It was also his submission that since the CIT (Exemptions) went into the issue of the activities carried out by the assessee, the assessee has placed an application for admission of additional evidences citing instance and evidences supporting the activities of the assessee and it was his prayer that these may be admitted.

3. The ld. CIT-DR Mr. Ram Mohan Singh inviting attention to the impugned order submitted that in the facts of the present case, the assessee is an on-going entity and has been in operation since 06.06.2014. Referring to para 5 of the impugned order, it was submitted that the assessee was show caused to produce evidences and documents vide letter dated 17.10.2016 and amongst these, the following specific details were sought for:

*Furnish the details regarding charitable activities being conducted by the company. You are required to clarify as to which specific limb under section u/s 2(15) of the I.Act is being pursued.*

3.1 It was his submission that admittedly sufficient opportunity was provided, accordingly admission of fresh evidences was objected to. Commenting upon the evidences of the activities carried out by the assessee, it was his submission that apparently only two conferences were stated to have been held whereas one of these for a launch of WPO South Asia Regional Chapter. It was also his submission that even otherwise, the evidence is not subsequent to the order and is prior to the date of the order and could have been filed. Even otherwise, it was his submission that CIT(Exemptions) has held that the function was of South Asia Regional Chapter which was a unit of WPO International and not that of the assessee. Accordingly, it was his submission that the application has been correctly rejected on facts.

4. We have heard the rival submissions and perused the material on record. Admittedly, in the facts of the present case, the assessee is an ongoing entity in operation since 06.06.2014. The stated aims and objects as per para 2 of the impugned order are as under :

*“The stated aims and objects of the company to set up a forum for Entrepreneurs & World Leaders in order to develop human capital, fuelling innovation, employment generation and economic growth of the societies and to create an environment where entrepreneurship can prosper in the public interest; to promote stronger educational system that prepare and future generations of entrepreneurs, teachers, managers and individuals with, the skills to succeed and help others and to educate and developing the skills that generate an entrepreneurship mindset and in preparing further leaders for solving more complex, interlinked and fast changing problems; to promote or assist in promotion of companies for the purpose of acquiring all or any of the properties rights and liabilities of the companies.”*

4.1 On going through clause (III) of the Memorandum of Association, it is seen that the objects of the company are set out as under:

*III (A) The objects for which the company is established are :*

- 1. To set up a forum for Entrepreneurs & World Leaders in order to develop human capital fuelling innovation, employment generation and economic growth of the societies and to create an environment where entrepreneurship can prosper in the public interest.*
- 2. To promote stronger educational system that prepare current and future generations of entrepreneurs teachers, managers and individuals with the skills to succeed and help others and to educate the developing the skills that generate an entrepreneurial mindset and in preparing further-leaders for solving more complex, interlinked and fast changing problems.*
- 3. To advance entrepreneurs education for sustained social development, economic growth in public interest through holding conferences, seminars, summits, residential programmes and creating awareness through media and publishing journals, newsletters, magazines, books and other forms of publications and to promote education: as priority to eradicate illiteracy and poverty.*
- 4. No objects of the company will be carried out without obtaining prior approval/no abjection certificate from the concerned authority wherever required.*
- 5. None of the objects of the company will be carried out on commercial basis.*

4.2 The evidence sought to be placed on record, it is seen admittedly was evidence always available with the assessee and admittedly opportunity, we note has been provided as canvassed by the CIT-DR Mr. Ram Mohan Singh. We note that the impugned order is dated 28.10.2016 and the evidences relied upon, tabulated as under were always available to the assessee :

*WPO South Asia Regional Chapter, now known as YPO Gold South Asia Regional Chapter is a part of World Leaders Organisation. Copy of Resolution passed by the Board of WLO for creation and setting up of WPO Gold South Asia Regional Chapter is enclosed. Details of Activities carried on by WLO from inception till date is as follows :*

**F.Y. 15-16**

*26 October, 2015*

*Inaugural Event at Amreli, Hotel Diplomat, New Delhi.*

*16 January, 2016*

*Meeting-in-Meeting at launch of "Start Up India" movement at Vigyan Bhawan, New Delhi.*

*22 February, 2016*

*In the Boardroom with Mr Naveen Jain, Philanthropist/Co-Founder and Chairman, Moon Express Inc. at IILM, New Delhi. (Annexure 1)*

*29 March, 2016*

*Interactive Session with Prof Ashish Nanda, Director of IIM, Ahmedabad at IILM, New Delhi.*

*(Annexure II)*

**FY 16-17**

*7 August, 2016*

*'Reconnect' - Annual Networking Dinner at DLF Magnolias, Gurgaon*

*7 October, 2016*

*Meeting-in-Meeting to celebrate International Day of the Girl, Chat with Diplomats at IILM, New Delhi.*

*(Annexure III)*

*22 October, 2016*

*Interactive Session with Prof Chandramauli Upadhyay, Astrologer at ITC Maurya, New Delhi.*

*(Annexure IV)*

*24 & 25 February 2017*

*"Words in the Garden - Celebration of Literature, Arts and Ideas" at India international Center, New*

*Delhi. {Annexure V)*

*For World Leaders Organization*

*Sd/-*

*Director*

*13 May,*

*Forum in Business, "Open Hearts, Open Minds" to help members to incorporate best practices for better culture in the Organisation. (Annexure VI)*

**FY 17-18**

*2 September, 2017*

*Closed door session with Mr KC Verma, former Chief of RAW to speak on "India's National Security and the Role of Intelligence" at Gymkhana Club, New Delhi. (Annexure VII)*

*15 September 2017*

*Meeting-In-Meeting at the Launch of Dr Quraishi's Book at IILM, New Delhi (Annexure VIII)*

*15 January, 2018*

*Special lecture by Prof Jagdish Sheth at IILM, New Delhi (Annexure IX)*

*24 & 25 February, 2018*

*2<sup>nd</sup> edition of Words in the Garden at India International Center, New Delhi (Annexure X)*

*3 March, 2018*

*Interactive Session with Kriti Bharti, Rehabilitation Psychologist, Founder of "SAARTHI" trust*

*For Leaders Organization*

*Sd/-*

*Director*

4.3 It is seen that some of these could have been filed. It is seen on a reading of the supporting documents that on 22.02.2016 there was a

special lecture of Mr. Naveen Jain was hosted by WPO South Asia Regional Chapter. The narration in assessee's words is extracted hereunder :

**WPO SOUTH ASIA REGIONAL CHAPTER** hosted an event. In the Boardroom with Naveen Jain on February 22, 2016 at IILM, New Delhi.

*Naveen Jain, a serial entrepreneur and philanthropist driven to solve the world's biggest challenges through innovation. Founder of Moon Express, World Innovation Institute, iNome, TalentWise, Intelius and infospace, Naveen sees beyond the current business and I technological landscape, creating companies that make a true impact.*

*Naveen has won many accolades -Ernst and Young's Entrepreneur of the Year, Silicon India's "Most Admired Serial Entrepreneur", to name a few. He is also the recipient of the "Albert Einstein Technology Medal for his pioneering effort in technology.*

*Naveen began by recounting his entrepreneurial success story, the obstacles he faced and how he overcame all the barriers with perseverance. He shared his thoughts on how innovation and entrepreneurship can potentially solve the world's most complex challenges. Some of the thoughts he shared during the session were*

*-Most of the disruptive ideas come from non-experts*

*-Never give up on your dream because if you do, you are no more than a zombie*

*-If you tell somebody what you are thinking and they don't think it's crazy, then you are thinking too small !*

*-Don't focus on net worth but on self worth*

*Naveen's next endeavour is to travel to the moon using lunar resources for innovation on earth. It was an inspirational and informative evening.*

4.4 Similarly, a program was hosted by YPO Punjab on 18<sup>th</sup> March 2017.

The narration of the events in assessee's words is :

**Day Chairs : Anjali & Rishi Dada**

*"A session with wrestler Geeta Phogat saw maximum participation from children, members and spouses alike. Geeta spoke candidly about her tough training regimen and also said that her father and coach Mahavir Singh Phogat was sterner and stricter than how Aamir portrayed the man in the film Dangal. Geeta added that they would often get beaten if they did not train or showed laziness during training. She spoke about her diet and encouraged children to give up all junk food and follow a healthy regimen. It is this perseverance through which the sisters triumphed, making their story a genuine inspiration."*

4.5 The Id. AR in his reply has invited special attention to the decision of the Coordinate Bench in Mumbai in the case of CEO Clubs India V DIT(E) 53 SOT 488 (Mum Trib.). The said decision has been cited so as to canvass that the said assessee was a company u/s 25 of the Companies Act. The activities of the said assessee were stated to be held in Dubai, China and Thailand and thus outside the territory of India and the department's argument that it was at best a networking facility for various CEOs of the companies to improve quality or profitability of the enterprises and thus could not be classified to be charitable in nature was not accepted. The following specific paras were specifically referred to. For ready reference, paras 9 to 12 of the said decision were heavily relied upon which are reproduced hereunder:

9. We have considered the rival submissions. The first reason assigned by the DIT for denying registration to the Assessee U/S.12A of the Act was that the objects of the Assessee are not for the benefit of general public but for specific members viz., benefit of companies who are engaged in commercial activities to improve their production or profitability. Sec.2(15) of the Act defines Charitable Purpose to include relief of the poor, education, medical relief, and the advancement of any other object of general public utility. The advancement of any other object

*of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity. In Surat Art Silk Cloth Mfrs. Association's case (supra), the Hon'ble Supreme Court had to deal with the question as to what is object of general public utility. The facts were that the assessee, a company registered under s. 25 of the Companies Act, 1956 had the following as its objects: "(a) to promote commerce and trade in art silk yarn, raw silk, cotton yarn, art silk cloth, silk cloth and cotton cloth; (b) to carry on all and any of the business of art silk yarn, raw silk, cotton yarn, as well as art silk cloth, silk cloth and cotton cloth, belonging to and on behalf of its members; (c) to obtain import licences for import of art silk yarn, raw silk, cotton yarn, and other raw materials as well as accessories required by its members for the manufacture of art silk, silk and cotton fabrics; (d) to obtain export licences and export cloth manufactured by the members; (e) to buy and sell and deal in all kinds of cloth and other goods and fabrics belonging to and on behalf of the members; . . . (n) to do all other lawful things as are incidental or conducive to the attainment of the above objects." The income and property of the assessee were liable to be applied solely and exclusively for the promotion of the objects set out in the memorandum and no part of such income or property could be distributed amongst the members in any form or utilised for their benefit either during its operational existence or on its winding up or dissolution. The assessee's income was derived primarily from two sources: (i) an annual subscription collected from its members at the rate of Rs. 3 per power loom, in regard to which it was conceded by the department that it was exempt from tax; and (ii) commission of a certain percentage of the value of licences for import of foreign yarn and quotas for purchase of indigenous yarn obtained by the assessee for its members. This commission was credited separately in a building account and out of this amount the assessee constructed a building. The Tribunal held that the primary purpose for which the assessee was established was to promote commerce and trade in art silk, silk yarn and cloth as set out in clause (a) and the other objects in clauses (b) to (e) were merely subsidiary objects; that the primary purpose was plainly advancement of an object of general public utility and did not involve the carrying on of any activity for profit within the meaning of s. 2(15) of the Income-tax Act, 1961, because whatever activity was carried on by the assessee in fulfillment of the primary purpose was for advancement of an object of general public utility and not for profit; and that, therefore, the assessee's income was exempt from tax under s. 11(1). On further appeal the Hon'ble Supreme Court held that the objects specified in clauses (b) to (e) were merely powers incidental to the carrying out of that dominant and primary purpose; (ii) that the dominant or primary purpose of the promotion of commerce and trade in art silk, etc.. was an object of public utility not involving the carrying on of any activity for profit within the meaning of s. 2(15) of the Act.*

10. *From the aforesaid decision it is clear that object which seeks to promote or protect the interest of a particular trade or industry are object of public utility. The main objects of the Assessee was to promote networking facilities to the CEOs for improving the quality and profitability of their enterprises by providing a platform for CEOs for exchange of ideas and promotion of entrepreneurship through shared experience in India. We are of the view that it cannot be said that the dominant or primary objects of the Assessee are not charitable. It cannot also be said that it is not for public purpose as it is restricted to only CEOs. Advancement or promotion of trade, commerce and industry leading to economic prosperity ensures for the benefit of the entire community. That prosperity would also be shared by those who engage in the trade, commerce and industry but on that account the purpose is not rendered any less an object of general public utility. The objection of the DIT for denying registration on this ground is therefore found to be without any basis.*

11. *The other objection of the DIT was that the activities of the Assessee were not confined to India and therefore registration cannot be granted. The basis for these observations is that conferences were to be held outside India. We are of the view that holding of conferences abroad would not make the activities of the Assessee being carried out outside India. The benefits of such conference will ultimate go to Assessee and its members. It cannot be said that the activities of the Assessee were carried on outside India.*

12. *We are of the view that none of the reasons assigned by the DIT for rejecting the claim for registration can be sustained. We direct that the Assessee be allowed registration as prayed for by it. The appeal of the Assessee is allowed."*

4.6 Apart from that, the assessee on merits has relied upon Entrepreneurship Development Institute of India v. ITO: 49 ITD 183 (Ahd. Trib.) ; Institute of Correctional Administration v. CIT: 78 taxmann.com 276 (Chd. Trib.); Army Welfare Placement Organization v. DIT(E): 68 SOT 535 (Del Trib.); Greater Kailash-II Welfare Association v. DIT(E): 18 SOT 563 (Del. Trib.)(TM); CIT v. Surat Art Silk Cloth Manufacturers : 121 ITR 1 (SC); PHD Chamber of Commerce & Industry v. DIT (E): 357 ITR 296 (Del). However, we find on going through the peculiar facts and circumstances of the case that since the issues arising for determination in the case of the assessee which is an ongoing entity since 06.06.2014 and the application having been made in April, 2016, the fresh evidences placed on record are relevant and crucial for deciding the issue. We find that no doubt an opportunity was provided to place supporting evidences on record by the CIT (Exemptions), however, looking at the date of the passing of the order, it cannot be said to be an effective opportunity. Accordingly, without addressing the issue on merits, we set aside the impugned order back to the file of the CIT (Exemptions) with direction to pass speaking order in accordance with law. The assessee, in its own interest is directed to ensure full and proper compliance before the said authority by making whatever facts and evidences are sought by the said authority in order to determine the issue.

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

Order Pronounced in the Open Court on 26.11. 2018.

**Sd/-**  
**( डा. बी.आर.आर. कुमार )**  
**(Dr. B.R.R. KUMAR)**  
**लेखा सदस्य/ Accountant Member**

**Sd/-**  
**(दिवा सिंह )**  
**(DIVA SINGH)**  
**न्यायिक सदस्य/Judicial Member**

“पूनम”

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

1. अपीलार्थी/ The Appellant -
2. प्रत्यर्थी/ The Respondent -
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar  
ITAT, Chandigarh.