

IN THE INCOME TAX APPELLATE TRIBUNAL  
Camp Bench at Jalandhar

Before Shri N.K. Saini, Vice President  
and Shri Ravish Sood, Judicial Member

ITA No.203/Asr./2017  
(Assessment Years: 2017-18)

Ankur Narula Ministry Society  
Opp. Punjab Gramin Bank,  
Khambra, Jalandhar

Vs.

Commissioner of Income Tax  
(Exemption),  
Chandigarh

PAN – AACAA8472D

(Appellant)

(Respondent)

Appellant by: Shri Gunjeet Syal, A.R.  
Respondent by: Shri. Pawan K. Kumar, D.R

Date of Hearing: 08.01.2019  
Date of Pronouncement: 15.01.2019

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Exemption) under Sec.12AA(1)(b)(ii) of the Income Tax Act, 1961, dated 31.03.2017, wherein the latter has declined to grant registration applied by the assessee under Sec.12A of the I.T. Act. The assessee assailing the order of the CIT(A) has raised before us the following grounds of appeal :

- “1. That the appellant is a Society registered under the provisions of the Societies Registration Act, 1860 vide certificate of registration dated 08.07.2011. That as per aims and objects of the society, which have been reproduced in the impugned order at paragraph No. 2, the Ld. CIT(E), has passed the impugned order contrary to the provisions of section 12AA, which is not sustainable in the eyes of law.
2. That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration u/s 12AA of the Act, 1961 of the appellant Society by holding that the activities of the Society are

*predominantly for creation of assets in form of Land & Building in contrast to claimed charitable activity.*

3. *That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration u/s 12AA of the Act, 1961 of the appellant Society by holding that the activities of the Society are confined to a particular section of the society.*
4. *On the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration u/s 12AA of the Act, 1961 of the appellant Society by holding that the objects of the Society are Preaching, building Churches of its own and helping other Churches.*
5. *That on the facts and in the circumstances of the case, Ld CIT(E) erred in rejecting the application for registration u/s 12AA of the Act, 1961 of the appellant Society in absence of any adverse finding regarding the aims, objects and genuineness of activities of the Society. Hence, the appellant Society should be granted registration u/s 12AA. In fact, the Ld. CIT(E) held that the assessee has been carrying out charitable activity.*
6. *The fact of application of property/funds/income of the appellant Society is to be looked into only by the Ld. AO at the assessment stage for granting exemption under section 11 and not by the Ld. CIT(E) at the time of registration u/s 12AA.*
7. *That reasons given at paragraph no. 9 of the impugned order, for rejection of application were never raised/confronted by the authorities below to the appellant Society.*
8. *The appellant Society craves, leaves to alter and add to substitute any ground of appeal before or at the time of hearing."*

2. Briefly stated, the assessee society was established with multiple aims and objects viz. to organize free medical camps, blood donation camps and to involve in drug rehabilitation, alcohol de-addiction and AIDS prevention and care and to work towards re-instatement and rehabilitation of people bound by various addictions & social evils like prostitutions, child labour etc; to impart and provide free education to socially backward needy children & adults of all communities, castes and creeds; to help the victims of flood, famine, earthquake, tsunami and other natural calamities internal or external and will also help in war & terrorist related activities as the need calls with the pre-permission and co-ordination of the Government; to provide education/awareness through "Public Awareness Meetings" about the drawbacks of pollution through water, Air and soil free of cost; to acquire by purchase, lease, gift, grant, legacy, exchange or otherwise from any person, company, government, or institutions whatsoever, land, buildings, vehicles, and all other kind of properties both movable and immovable for the attainment of the objects of the society. Also to construct,

improve, alter and extend any building that may be found necessary for the purpose of the society; to ordainate and support pastors, evangelists and other lay leaders for the spiritual development of the indigenous churches; to provide the Vermiculture & Solid waste management free of cost for the welfare of urban and rural people and to encourage and set high standards among the Vermiculture & waste management groups and to do Herbal planting etc.; to establish indigenous and independent churches and to ordain pastors and Bishops for the churches to conduct spiritual ceremonies like Funerals, baptism, marriages, child dedication etc.; to grow, raise, produce, plant, cultivate, buy, import, export, sell trade and deal in trees, shrubs, plants, sprouts, seeds, roots, fruits, herbs and flowers of all kinds and description; to promote the study, treatment, care and prevention of mental and emotional disorders and deficiencies of infants, children, adolescents adults, senior citizens and their families; to advance the physical, social, psychological and spiritual well-being of mankind; to promote positive mental health in children and adolescent with concern for laying a foundation for better adulthood and future society; to take up work to enhance the quality of life; to grant Scholarships, stipends, prizes, rewards and other financial assistance to students, artists and other social workers; to run libraries for imparting social & religious education especially for poor & needy children; to create a Trust if needed and to appoint Trustees as well thereof; to prompt followers & other to shun crimes or other evils & mischiefs which are against the society and raise their Moral standard; and generally to do welfare, charitable, religious and all such lawful acts as shall found necessary and incidental and conducive to attainment of the objects of the society. The assessee society had filed an application in Form No. 10A on 30.09.2016 seeking registration under Sec.12A of the I.T. Act. It was observed by the CIT (Exemptions) that the assessee society was an ongoing entity that have been in operation since 08.07.2011. The CIT (Exemption) in the course of the proceedings for verifying the genuineness of the activities of the assessee society issued 'show cause' letter on 17.01.2017, vide which the assessee was called upon

to place on record certain documents as well as provide clarifications in respect of the following issues:

- “(i) Details of property vested in the society, as envisaged u/s. 11 of the I.T. Act, income from which is sought to be exempted.*
- “(ii) Details of voluntary contributions received by the society, as envisaged u/s 22 of the I.T. Act and whether any specific direction has been received by the persons making voluntary contributions.*
- “(iii) Originals of MOA/Bye-laws of the society along with the Registration Certificate for verification.*
- “(iv) Copies of Bank Statements through which activities are being propagated highlighting the receipts and the different items of expenditure that are being claimed.*
- “(v) Trading & Profit & loss Account has been submitted for the year ended 31.03.2014 which is essential for a profit making entities. Explain whether it is a non profit organization ?*
- “(vi) The copy of the I.T Return of the society for the A.Y. 2016-17.*
- “(vii) Complete details of the Donations received or intended to be received and documentary evidence as regards to Grants received.*
- “(viii) Donations received under FCRA along with the relevant details such as copy of the return for FCRA and the copy of specified bank account.*
- “(ix) A note on activities of the society.*
- “(x) Details of corpus fund and whether the same are with any written specific directions.*
- “(xi) Details regarding charitable activities being conducted by the society clarifying the specific limb u/s 2(15) of the I.T. Act under which the activity is being pursued.*
- “(xii) Receipts and payment accounts of the society for the last three years.*
- “(xiii) Whether any exemption is already being claimed by the society under the Income tax Act, 1961 and the same have been availed while filing its ITR in earlier years.*
- “(xiv) Financial statements for the financial year 2013-14 to F.Y: 2015-16 if already not submitted.*
- “(xv) Rationale behind the intention of claiming for registration under this section after 5 years of its creation.”*

The CIT (Exemption) as is discernible from his order, had called upon the assessee applicant to provide an explanation as to why the registration should be granted in the absence of any apparent charitable activity being perused by it. It is stated, that written reply in respect of some of the issue raised by the CIT (Exemption) was submitted by the assessee on 07.02.2017. Subsequently, the assessee applicant filed its reply, wherein it was claimed that it was involved in charitable religious activities. Apart therefrom, the assessee applicant placed on record a note on its activities

along with the financial statements for Financial years 2013-14 to 2015-16 with the CIT (Exemption). However, the CIT( Exemption) after perusing the financial statements of the assessee society for the Financial years: 2013-14 to 2015-16 observed, that the receipts of the society were only through donations received through cash. Further, it was noticed by him that the financial statements of the assessee society revealed that a meagre sum (even less than 10% of the total receipts) were spent on the charitable activities as claimed by the assessee. The CIT (Exemption) held a conviction that the focus of the assessee society was confined to asset creation and investments in acquiring lands, as was evident from a perusal of the financial statements for the financial years 2013-14 to 2015-16 before him. Apart therefrom, it was noticed by the CIT (Exemption) that the emphasis of the assessee was on building churches and providing assistance to other churches. In the backdrop of his aforesaid deliberations, the CIT (Exemption), vide his letter dated 28.03.2017 (sent through e-mail) called upon the assessee to submit the details of land and building fund and asset fund along with its source. On a perusal of the details as were furnished by the assessee, it was observed by the CIT (Exemption) that the notes on activities and its aims and objects mentioned in the 'memorandum of association' did not match with the financial statements of the applicant society. Apart therefrom, it was observed by the CIT (Exemption) that a perusal of the reply submitted by the assessee applicant along with financial statements revealed that the activities of the assessee society included preaching, delivering gospel and biblical sermons by its main preacher viz. Shri Ankur Narula who was the president of the society. On the basis of the aforesaid deliberations, it was observed by the CIT (Exemption) that the assessee society was not carrying out any charitable activity as per its aims and objects mentioned in the memorandum of association. Rather, he held a conviction that the assessee society was channelizing the golak donations for acquiring land and construction of church building. Apart therefrom, it was noticed by him that the assessee society had received land and building fund (Rs.2,37,71,265/-) and asset fund (Rs.62,48,180/-) through golak

donations, which had been reflected as a liability in the 'balance sheet' as on 31.03.2016, and was not routed through the 'Income and the expenditure account'. It was observed by the CIT (Exemption) that as the assessee society was yet not registered under Sec.12AA of I.T. Act, thus keeping the aforesaid receipts out of the ambit of the term "income" was not in conformity with the mandate of law. The CIT (Exemption) held a strong conviction that as was discernible from the records, the predominant intent of the assessee society was to amass assets in the shape of lands and buildings in the garb of charitable and religious activities. In sum and substance, the CIT (Exemption) concluded that the genuineness of the activities of the assessee society in the backdrop of the aforesaid facts could not be corroborated with the stated aims and objects, given that for the last 5 years since creation of the society the intention mainly remained as that of creation of assets in the form of lands and buildings, in contrast to the claimed charitable activities. Apart therefrom, it was observed by him with the documents placed on record did not reveal that the assessee society was involved in the activities of "charitable purpose" for the general public at large, but was confined to a particular section of the society. Rather, the CIT (Exemption) was of the view that despite the fact the assessee society had ostensibly stated a plethora of objects, however, the activities undertaken by it clearly revealed that the majority of them have not been followed. On the basis of his aforesaid observations, it was further observed by him that the assessee's main emphasis was on preaching, building churches of its own and assisting other churches. The CIT (Exemption) in the backdrop of his aforesaid deliberations, being of the view that the assessee society was not involved in carrying out activities of "charitable purposes" for the public at large, and even otherwise its activities were confined to amassing of assets in the shape of lands and buildings, thus rejected the application filed by the assessee society for grant of registration under Sec.12A of the I.T. Act.

3. Aggrieved, the assessee society assailing the order of the CIT (Exemption) has carried the matter in appeal before us. The Id. Authorized Representative (for short 'A.R') for the assessee took us through the queries

that were raised by the CIT (Exemption) in the course of the proceedings before him, and the replies which were filed in compliance thereto by the assessee. It was submitted by the Id. A.R that the CIT (Exemption) vide a letter dated 28.03.2017 (sent through e-mail) had raised certain queries, in reply to which the assessee had furnished its reply dated 28.03.2017 (Page 151 to 174) of the assessee's 'Paper book' (for short 'APB'). Further, the Id. A.R taking us through the exhaustive submissions which were filed with the CIT (Exemption) submitted, that the latter had at no stage doubted the genuineness of the activities of the assessee society. It was submitted by the Id. A.R that the issue on the basis of which the application filed by the assessee seeking registration under Sec.12A was rejected by the CIT (Exemption), were at no stage confronted to the assessee, failing which there was no occasion for it to rebut the adverse inferences which were thereafter drawn in its hands. In the backdrop of the aforesaid facts, the Id. A.R submitted that in all fairness now when adverse inferences had been drawn in the hands of the assessee without affording to it any opportunity of being heard, therefore, the matter was required to be restored to the file of the CIT (Exemption) for fresh adjudication after affording a reasonable opportunity of being heard to the assessee.

4. Per contra, though the Id. Departmental Representative (for short 'D.R') relied on the order passed by the CIT (Exemption), however he did not rebut the contention advanced by the Id. A.R that the application of the assessee seeking registration under Sec.12A had been rejected on grounds which were never confronted by the CIT (Exemption) to the assessee. Rather, the Id. D.R fairly admitted that he had no objection if the matter was set aside to the CIT (Exemption) for fresh adjudication.

5. We have heard the authorized representatives of both the parties, perused the orders of the lower authorities and the material available on record. On a perusal of the order of the CIT(E), it is discernible that the latter had drawn adverse inferences primarily on two counts viz. (i) that the assessee society was predominantly involved in amassing assets in the

shape of lands and buildings under the garb of 'charitable activities'; and (ii) that the perusal of the records revealed that the assessee society was not involved in the activities of 'charitable churches' for the general public at large, but was confined to a particular section of the society. We are of the considered view that now when the authorised representatives for both parties are in agreement that as the assessee had not been afforded a reasonable opportunity of being heard on the issues on which adverse inferences had been drawn by the CIT (Exemption,) while declining to grant registration to the assessee society under Sec.12A, therefore, in all fairness the matter requires to be revisited by the CIT (Exemption). We thus in terms of our aforesaid observations restore the matter to the file of the CIT (Exemption) with a direction to readjudicate the application filed by the assessee for grant of registration under Sec.12A. Needless to say, the CIT (Exemption) in the course of the 'set aside' proceedings would not be influenced by his earlier observations and shall redecide the matter after affording a reasonable opportunity of being heard to the assessee society.

6. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 15.01.2019

Sd/-  
(N.K. Saini)  
Vice President

Sd/-  
(Ravish Sood)  
Judicial Member

Place: Jalandhar; Date: 15.01.2019  
Ps. Rohit

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण/ DR,  
ITAT, Camp Bench, Jalandhar.
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**आदेशानुसार/ BY ORDER,**  
**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Camp**  
**Bench, Jalandhar.**

Sr.No.	Details	Date	Initials	Designation
1	Draft dictated on			Sr.PS/PS
2	Draft Placed before author			Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5	Approved Draft comes to the Sr.PS/PS	15.1.19		Sr.PS/PS
6	Kept for pronouncement on	15.1.19		Sr.PS/PS
7	File sent to the Bench Clerk	16.1.19		Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date on which file goes to the AR			
10	Date of Dispatch of order			