

आयकर अपीलिय अधिकरण, पुणे न्यायपीठ “ए” पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “A”, PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष  
**BEFORE MS. SUSHMA CHOWLA, JM AND SHRI D. KARUNAKARA RAO, AM**

आयकर अपील सं. / **ITA No.2139/PUN/2017**

Vidya Vikas Mandal,  
Vijapur, Aurangabad.

PAN : AACTV0892M

.... अपीलार्थी/Appellant

Vs.

CIT (Exemptions),  
Pune.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri S. N. Puranik  
प्रत्यर्थी की ओर से / Respondent by : Shri S. B. Prasad, CIT

सुनवाई की तारीख / <b>Date of Hearing : 20.02.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement: 01.03.2019</b>
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**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM :**

This appeal is filed by the assessee against the order of the CIT (Exemptions), Pune (in short “the CIT”) dated 28.07.2017 passed u/s 12AA of the Act, 1961.

2. The grounds raised by the assessee are as under :-

“1. Commissioner of Income Tax Exemption, Pune has erred both on facts and Law in rejecting the Registration u/s 12AA under the Income Tax Act, 1961. Appellant prays to allow the Registration.

2. Commissioner (Exemption) has erred in observing that “Present activities of the applicant lacks Charitable intend and are not genuine to the extent that they are being run as a regular establishment/ institution without benefit for weaker sections of Society. Appellant prays to grant registration as “MANDAL’s” object and activities of the Mandal are within the definition of Charitable purpose u/s 2(15) of the Act and are eligible u/s 11/ 10 (23C) etc.

3. *Appellant prays to add, alter, amend, modify or withdraw the grounds as the occasion demands.”*

3. At the outset, ld. Counsel for the assessee read out the order of the CIT made u/s 12AA of the Act dated 28.07.2017 and submitted that the CIT rejected the request for registration stating the following (paras 5 to 7 of the CIT's order) :-

*“5. As per the questionnaire issued to the applicant was asked to furnish **details of charitable Activities** carried out during the last 3 years (Question 6 of the questionnaire). Enquiries were also caused to be made in respect of the activities through the office of the Jurisdictional Assessing Officer at Aurangabad.*

*5.1 The Inspector visited the premises and submitted a factual report. As per para 3 of the report which is reproduced below :-*

*“The trust personnel present, have stated that the only source of funds to the trust is **fees from students** and they are running a school are a reasonable fees. It has further stated by them that they have **future plans to provide educational facilities to the students from weaker section of the society of Rural areas at an affordable fees.** The trust is **found in existence and engaged in noble cause.**”*

*From the above, it is seen that the applicant is running a school and charging fees from the students. Nothing has been brought on record to show that the weaker section or under-privileged students are being charged concessional fees or given free education.*

*6. The present activities of the applicant lacks charitable intent, and are not genuine to the extent that they are being run as a regular establishment/ institution without benefit for the weaker sections of society as per the objects for which it had been formed.*

*7. In view of the above facts, I am not satisfied about the genuineness of the activities of the trust, therefore the application for grant of registration u/s 12A of the Income Tax Act, 1961 is hereby rejected u/s 12AA(1)(b)(ii) of the Income Tax Act, 1961.”*

4. Referring to the above extracted portion of the impugned order of the CIT, ld. Counsel for the assessee submitted that the CIT did not find any mistake with the genuineness of the objects of the assessee. However, he held that in absence of evidences that the educational purpose is meant for weaker sections/under-privileged students with concessional fees or free education, CIT rejected the request for registration u/s 12AA of the Act. Relying on the various decisions in this regard, i.e. the judgement of Hon'ble High Court of Punjab & Haryana in the case of CIT vs. IILM Foundation Academy (389 ITR 0148), ld. Counsel submitted that so long as

objects and activities of the assessee are bona-fide and the registration is required to be granted to the assessee. Further, he brought our attention to page 2 of the Paper Book and submitted that the Trust is abided by its objects and, therefore, the registration rejected by the CIT is required to be reversed.

5. On the other hand, ld. DR relied heavily on the order of the CIT and the Hon'ble Supreme Court's judgement in the case of CIT vs. Babu Ram Education Society (257 Taxman 558) (SC).

6. On hearing both the sides on the issue raised in the grounds extracted above, we find the CIT did not give any categorical finding about mala-fide of the objects and activities of the assessee *qua* its objects. In our view, the absence of data relating to the weaker sections/under-privileged is no reason to reject the request of the assessee. In our view, this is not an adequate reason for rejection of the registration u/s 12AA of the Act. We also find the judgement of the Hon'ble Supreme Court in the case of Babu Ram Education Society (*supra*) relied on by the ld. DR for the Revenue does not help the Revenue. The above ratio is not applicable to the facts of the present case. In the said judgement (*supra*), the Hon'ble Supreme Court held as under :-

*“Registration of a trust does not involve enquiry into actual activities or application of funds, etc. and at that stage, only enquiry required to be conducted is with respect to object of trust alone.”*

7. Further, we also examined the cited judgement in the case of IILM Foundation Academy (*supra*) and find the registration is required to be granted so long as the primary objects of the Trust are charitable. The enquiry conducted by the ITI supports the assessee in stating that the trust

exists for charitable activities. Therefore, in our view, the grounds raised by the assessee should be allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced on this 01<sup>st</sup> day of March, 2019

**Sd/-**  
**(SUSHMA CHOWLA)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(D. KARUNAKARA RAO)**  
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 01<sup>st</sup> March, 2019.  
*Sujeet*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT (Exemptions), Pune;
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR 'A', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune