

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

ITA Nos. 283 & 284/Hyd/2019

Heart & Stroke Foundation vs. Commissioner of Income-tax
of India, Hyderabad. (Exemptions), Hyderabad.

PAN – AAECH 5106P

Appellant

Respondent

Assessee by: Shri A.V. Raghuram

Revenue by: Shri Y.V.S.T. Sai

Date of hearing: 16/09/2019

Date of pronouncement: 20/09/2019

ORDER

PER SMT. P. MADHAVI DEVI, J.M.:

These are the appeals filed by the assessee against the orders of CIT(E) rejecting the applications of the assessee for registration u/s 12AA and 80G of the I.T. Act.

2. Brief facts of the case are that assessee, a 100% subsidiary of American Heart Association Inc., USA (AHA) was formed on 13/04/2018 with the objective of training people in India in saving lives during cardiac arrest and during accidents. Assessee filed applications for registration u/s 12AA and also u/s 80G of the Act. The CIT(E) rejected the said applications by holding that the assessee, though, is registered u/s 10A of the Companies Act, it was formed on 13/04/2018, but, has not carried out any charitable activities and that it is selling training material, which has got copy rights and is generating revenue from the activities of training. He also held that Directors of the company are former associates of AHA and present Associates are appointed only

to help grow business of AHA in India. He also examined the correspondence between the Directors of the company and AHA to hold that the aim of the assessee is only to secure corporate connections. Therefore, he held that the objectives of the assessee are not charitable and accordingly, he denied the registration u/s 12AA and 80G of the Act.

3. The Id. Counsel for the assessee, while reiterating the submissions made before the CIT(E), submitted that the assessee company was formed only for the purpose of imparting training to people in India to save lives during cardiac arrest and also during accidents. He submitted that these activities are nothing but for medical relief and hence, the assessee's activities fall under the definition of section 2(15) of the Act i.e. for charitable purpose. He also submitted that assessee is not having any business activity in India and that training material are distributed free of cost to the persons undergoing training. He submitted that for granting of registration u/ss 12AA and 80G, CIT(E) is required to look into the objectives of the assessee company only and can look into the activities carried out by the assessee during the course of assessment proceedings and can disallow any expenditure which is not spent towards charitable activities of the company for which it is registered. Thus, he prayed for a direction to the CIT(E) to grant registration both u/s 12AA as well as section 80G of the Act.

4. Ld. DR, on the other hand, supported the orders of CIT(E) and reiterated the objections of the CIT(E) in denying the registration u/s 12AA and 80G of the Act.

5. Having regard to the rival contentions and the material on record as well as having gone through the objectives of the

assessee company, we find that they are for the advancement of object of 'general public utility' and not medical relief as claimed by the assessee. Assessee is not conducting or rendering any medical services directly to the patients, and therefore, it cannot be said to be engaged in the rendering of medical relief activities. We are of the opinion that the assessee's activities fall under the limb of advancement of object of general public utility. CIT(E) has gone by the correspondence between the directors of the company to opine that assessee company is into revenue generating activities and only to develop corporate connections. Since the company was formed only on 13/04/2018 and has filed applications for registration immediately, thereafter, the assessee could not have carried out any of the activities as per its objectives. At the time of registration u/s 12AA and 80G, the CIT(E) is required to go only into the objectives of the company or trust as held by the Hon'ble Allahabad High Court in the case of CIT Vs. Shreedhar Sewa Trust in Income Tax Appeal No. 33 of 2017, dated 07/09/2017. If there are any violations by the company to the provisions of section 11 or section 13 of the IT Act, the AO while completing assessments can deny exemption u/s 11 in respect of such activities. Therefore, we are of the opinion that registration to the assessee ought to have been granted both u/ss 12AA and 80G of the Act. In view of the above observations, we remand the issue to the file of CIT(E) with a direction to grant registration both u/ss 12AA as well as u/s 80G of the Act.

6. In the result, both the appeals under consideration are allowed.

Pronounced in the open court on 20th September, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, dated 20th September, 2019.

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Copy forwarded to:

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2. *CIT(E), 2nd Floor, Aayakar Bhavan, Basheer Bagh, Hyderabad.*
3. *ITO(E) – 2, Hyderabad.*
4. *Add. CIT(E), Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*