

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DELHI
BEFORE SHRI G.S. PANNU, VICE PRESIDENT
AND
SHRI K. NARSIMHA CHARY, JUDICIAL MEMBER**

**I.T.No. 5817/Del/2019
[Assessment Year: 2019-20]**

JatSewa Sangh, B-21, 2 nd Floor, Rajdhani Park, 40 Ft. Road, Mundka, Nangloi, Delhi PAN-AACTJ6647E (Appellant)	vs	CIT (Exemption), New Delhi (Respondent)
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Appellant by	Sh. R.S. Singhvi, CA
Respondent by	Ms. Nidhi Srivastava, CIT DR
Date of Hearing	16.09.2019
Date of Pronouncement	23.09.2019

ORDER

PER K. NARSIMHA CHARY, J.M.

Aggrieved by the rejection of the application for grant of registration under section 12AA of the Income Tax Act, 1961 (“for short the Act”), Assessee preferred this appeal.

2. Ld. AR, at the outset, submitted that the though in paragraph no. 9 of his order Id. CIT(A) observed that the provisions under section 12AA stipulates two conditions for registration under section 12AA of the Act, namely, the objects of

the society / trust to be charitable in nature and the activities of the society / trust should be genuine, but rejected the request of the assessee on the ground that in the absence of proper explanation in respect of donations received, the genuineness of the activities of the trust cannot be established.

2. It is his further submission that there is a catena of decisions including the decision of Hon'ble jurisdictional High court to the effect that at the time of registration, the relevant consideration is only in respect of the objects of the society, and the propriety of the donations will fall for consideration at the time of assessment itself. He placed reliance on CIT vs. Babu Ram Educational Society [2018] 96 Taxmann.com 606 (All HC), Babu Ram Educational Society vs. CIT [2013] 26 ITR (T) 351 (Agra), DIT vs. Foundation of Ophthalmic & Optometry Research Education Centre [2013] 355 ITR 361 (Delhi HC), Fateh Chand Trust and College Committee vs. CIT(E) [2018] 67 ITR (T) 564 (Agra), Kul Foundation vs. CIT [2015] 54 taxmann. Com 143 (Pune) and M/s Ujjwal Shiksha Samiti vs. CIT (E).

4. Per contra, learned DR submitted that in view of the fact that most of the donations were received from the entities which have no legal status, the genuineness of the donations remained unverifiable and, therefore, it cannot be said that the activities of the society would be genuine or legal. On this premise, she justified the impugned order.

5. We have gone through the record. It could be seen from the trust deed dated 12.5.2017 and also as noted by the Id. CIT(A) in his order vide paragraph no. 2, the objects of the trust are as follows:-

i. To promote educational development for upliftment of adults and children of all ages without any distinction of caste or religion and in the interest of mankind in general and to open schools, colleges, university and institutions for providing education and imparting vocational training.

ii. To promote and run coaching institute for competitive examination skill development centres/ institutions for imparting training to the people of all ages in covering various areas of works so as to enable them to take up jobs for their survival and sustainability.

iii. To purchase land, building and to construct for setting up schools, colleges, training institution, coaching centres or take on lease the schools, colleges training institutions, coaching centres or take on lease, the schools/institutions colleges already existing and being run by registered societies, corporates, state/central Govt. Department, Govt. Bodies Local Government, Trusts, Multi lateral agencies and individuals.

iv. To promote, develop modern agriculture technologies by undertaking activities of research and development in cooperation with governments, NGOs farmers education institutions, universities, multilateral and multinational agencies."

6. It could be seen from the impugned order that the Id. CIT(A) does not dispute any of the objects to be charitable in nature. All his objection, however, revolves on the fulcrum of the source of the donations and verifiability of the same. As rightly contended by the Id. AR, the source and genuineness of donations and the conduct of the activities of the trust would fall for consideration at the time of assessment and it is not relevant

factors to reject the registration under section 12AA of the Act as is held in the decision held by the assessee enumerated (supra). Further in DIT vs. Foundation of Ophthalmic & Optometry Research Education Centre (supra), the Hon'ble jurisdictional High Court clearly held that while examining application under section 12AA, concerned Commissioner/Director is not required to examine the question whether the trust had actually commenced and carried on its charitable activities, and statute does not prescribe a waiting period for registration till the trust commence its activities and applies the donations properly.

7. In view of the settled position of the law, we are of the considered opinion that the Id. CIT(A) is not justified in rejecting the registration and therefore, we direct the Id. CIT(A) to grant registration to the assessee trust under section 12AA of the Act.

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

Order pronounced in the open court on 23rd September, 2019.

Sd/-

(G.S. PANNU)
VICE PRESIDENT
Dated: 23rd Sep, 2019
SH

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

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

By order

Assistant Registrar

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