

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'D' : NEW DELHI)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

ITA No.3223/Del./2019

ITA No.3224/Del./2019

K.P. Singh Charitable Foundation,
4th Floor, Gopal Dass Bhawan,
Barakhamba Road,
New Delhi – 110 001.

vs. CIT (Exemption),
New Delhi.

(PAN : AADTK5393H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri R.S. Singhvi, Advocate
Shri Satyjeet Goel, Advocate
REVENUE BY : Shri J.K. Mishra, CIT DR

Date of Hearing : 05.09.2019

Date of Order : 07.10.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Since common questions of facts and law have been raised in the aforesaid appeals, the same are being disposed off by way of consolidated order to avoid repetition of discussion.

2. Appellant, K.P. Singh Charitable Foundation (hereinafter referred to as the 'Revenue') by filing the present appeals sought to set aside the

impugned orders all dated 28.02.2019 passed by the Commissioner of Income - tax (Exemption), New Delhi on the grounds inter alia that :-

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1 (i) That on facts and circumstances of the case, the Ld. Commissioner of Income Tax (Exemption) [hereinafter referred to as "CIT(E)"] was not justified in rejecting application for registration u/s 12AA of the Income Tax Act, 1961 without disputing the fact that objects of the appellant Trust are of charitable nature in terms of provision of section 2(15) of the Income Tax Act, 1961.

(ii) That appellant Trust is formed for the purpose of providing education, relief to poor, medical relief and various other objects as enshrined in the trust deed which are purely of charitable nature and in accordance with provisions of section 2(15) of the Income Tax Act, 1961.

(iii) That there being no dispute or adverse observation with regards to objects and purpose of the appellant Trust, the rejection of application u/s 12AA is on extraneous grounds and beyond the scope and power as vested by the statute.

2(i) That the activities of the appellant Trust are in accordance with its objects which the CIT(E) has failed to appreciate.

(ii) That genuineness of medical aid being not in dispute and same is supported from documentary evidences including medical certificate of the child, the observation of CIT(E) while rejecting application u/s 12AA is arbitrary, irrelevant and uncalled for.

3(i) That the benefit of medical assistance was of charitable nature in accordance with objects of the trust and the CIT(E) was not justified in disputing the same.

(ii) That decision to provide such assistance was taken by the committee after considering the genuine needs and the CIT(E) has no overriding power to dispute the same and impose uncalled for condition.

4. That order of CIT(E) is not sustainable on facts and under the law.

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1 (i) That on facts and circumstances of the case, the Ld. Commissioner of Income Tax (Exemption) [hereinafter referred to as "CIT(E)"] was not justified in rejecting application for granting of exemption u/s 80G of the Income tax Act, 1961 even though the conditions specified u/s 80G(5) of the Income Tax Act, 1961 are fully satisfied.

(ii) That Appellant Trust is created for purpose of providing education, relief to poor, medical relief and various other objects as enshrined in the trust deed which are purely of charitable nature and in accordance with provisions of section 2(15) of the Income Tax Act, 1961.

(iii) That there being no dispute or adverse observation with regards to objects and purpose of the Appellant Trust, the rejection of application for exemption u/s 80G is on extraneous grounds and beyond the scope and power as vested by the statute.

3. That order of CIT(E) rejecting the application for exemption u/s 80G is not sustainable on facts and under the law.”

3. Briefly stated the facts necessary for adjudication of the issue at hand are : Applications moved by the assessee trust in Form No.10A and 10G seeking registration under section 12AA of the Income-tax Act, 1961 (for short ‘the Act’) and exemption u/s 80G of the Act have been rejected by the Id. CIT (E) on the grounds that the assessee has not filed requisite details nor has submitted any evidence to show the charitable activities and as such genuineness of the activities has not been established.

4. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeals.

5. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed

by the revenue authorities below in the light of the facts and circumstances of the case.

6. Undisputedly, assessee trust has produced before the Id. CIT (E) the Trust Deed and some details regarding charitable activities carried out by the assessee. Assessee has constituted a Trust vide Trust Deed dated 27.03.2018 having comprehensive object clauses with main objects as under :-

“(i) The spread or promotion of education, knowledge or learning in all its branches including art, culture, music, dance, sports, ancient learning, social welfare. in such manner as the Trustees may think fit and for this purpose to :

- (a) Establish and/or acquire and maintain or support schools, colleges, universities, institutes, research institutes, skill development centers, vocational training centers in any manner or form.***
- (b) Grant endowments, donations, scholarships, fellowships, certifications, payment in cash or kind to any individual, institution, unincorporated or incorporated person (whether now existing or hereinafter to be established).***
- (c) Establish, develop, forge strategic ties, relationships and collaborate with any persons, institutions, bodies, societies, trusts etc.***

(ii) Affording of medical relief in such manner as the Trustees may think fit, including:

- (a) Establishment, maintenance, management, running of hospitals (including hospitals for animals, birds, etc.). dispensaries, nursing homes, health centers and other medical institutions and other public institutions for administering medical and other relief and for providing medical, para-medical and other related facilities.***
- (b) Organizing of medical camps, sanitation campaign, training camps, social welfare programmes, public health activities and health promotional activities.***
- (c) Grant of endowments, donations, scholarships, fellowships, certifications, payment in cash or kind to any individual, institution, unincorporated or***

incorporated person (whether now existing or hereinafter to be established) to individuals, persons or institutions for providing medical relief, medical help or undertaking any research work in medical field for achievement of the objects of the Foundation.

- (d) *Grant of medical relief and help to any person, institution, entity during epidemic, famine, flood, earthquake, tsunami, riots, terrorist attacks or any unforeseen natural or human made calamity or war or warlike operations.*
- (e) *Establishment, running and maintenance of research centres, training centres, vocational training in the field of medical, para - medical, nursing and other medical support systems and research activities in any way whatsoever.*
- (f) *Establish, develop, forge strategic ties, relationships and collaborate with any persons, institutions, bodies, societies, trusts etc.*

(iii) Relief to poor in such manner as the Trustees may think fit including distribution of free food, free clothing, providing shelter, establishment of old age homes, etc.;

(iv) Helping poor widows and unattached single women”

7. Bare perusal of the aims and objects of the Trust Deed constituted by the assessee leads to the conclusion that the charitable trust has been established to spread or promotion of education, knowledge or learning in all its branches including art, culture, music, dance, sports, ancient learning, social welfare, to establish and/or acquire and maintain or support schools, colleges, universities, institutes, research institutes, skill development centers, vocational training centers, grant endowments, donations, scholarships, fellowships, affording of medical relief by management, running of hospitals, etc., relief to the poor, helping poor widows and unattached single women, etc.

8. Ld. CIT (E) by losing sight of the facts that the trust has been established only on 27.03.2018 and within a short span of less than one year, evidence to show the charitable activities by the assessee trust cannot be called for. More particularly, when the ld. CIT (E) has not disputed the charitable purpose of the assessee trust, within a short span of period, charitable activities cannot be started. In these circumstances, ld. CIT (E) was only required to firstly satisfy himself if the assessee trust has been established for charitable activities and his apprehension qua carrying out the charitable activities can be taken care of by the AO at the time of framing the assessment.

9. Hon'ble Allahabad High Court in case cited as *CIT (E) vs. Yamuna Expressway Industrial Development Authority – (2017) 395 ITR 18 (All.)* while discussing the scope of sections 11 & 12 of the Act has held that it is not within the purview of Commissioner to examine whether the assessee was entitled to exemption u/s 11 or 12 since that was within the jurisdiction of AO and not the Commissioner (E). Hon'ble High Court further held that, *“A body or institution which is functioning for advancement of objects of general public utility and whose activities are not in the nature of trade, business or commerce or sheer profit making, is entitled to claim itself to be constituted for "charitable purposes" and seek registration under section 12A(1) of the Income-tax Act,*

1961. Charitable purpose primarily means that the predominant object must be to promote welfare of general public. An ancillary activity, if any, to that general one performed by the institution would not render such institution "non-charitable".

10. In view of what has been discussed above, we are of the considered view that the assessee trust having been constituted to carry out the charitable activities is entitled for registration u/s 12AA of the Act and consequent approval u/s 80G, but the Id. CIT (E) has erred in declining the registration u/s 12AA of the Act and approval u/s 80G of the Act on the basis of conjectures and surmises that the assessee has not supplied the details of charitable activities carried out by losing sight of the fact that within short span of one year, the details of charitable activities cannot be started and as such, the question of supplying the details thereof does not arise, which is not sustainable in the eyes of law. Consequently, appeals filed by the assessee are allowed directing the Id. CIT (E) to provide registration u/s 12AA and also to grant consequent approval u/s 80G of the Act.

Order pronounced in open court on this 7th day of October, 2019.

**Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 7th day of October, 2019
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(E), New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.