

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH " Friday Bench": NEW DELHI
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 6240 & 6241/Del/2019
(Assessment Year: 2019-20)

Celiac Society of India, C/o. ML Bhatt & Co, CAs, 302, Triveni Complex, E-10/12, jawahal park, Laxmi Nagar, New Delhi PAN: AABAC9536F	Vs.	CIT(Exemption), New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri Malav Goswami, Adv
Revenue by:	Ms. Ashima Neb, Sr. DR
Date of Hearing	20/09/2019
Date of pronouncement	15/10/2019

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. Today, this matter was fixed as assessee has filed a petition for early hearing of the matter in ITA No. 6240/Del/2019 wherein the registration u/s 12 A of the Income Tax Act was not granted to the assessee trust.
2. The assessee at the time of hearing sought adjournment stating that authorised representative of the appellant is suffering from high viral fever and he will not be able to prepare the present case before the coordinate bench. The assessee also submitted the copy of the doctor's prescription. However, looking at the matter we thought it not fit to grant the request of the assessee for adjournment and we proceed to decide the appeal itself as per request of the learned Departmental Representative.
3. The brief fact of the case is that assessee is a society, which is registered under the provisions of the Societies Registration Act, 1860 in the state of Delhi as per Registration Certificate dated 12/10/2018. The assessee is specifically having the object of to create awareness about celiac disease

and related condition and to represent the needs of celiac disease at national level. The assessee preferred an application in Form No. 10A on 5/12/2018 and further on 11/12/2018 in Form No. 10G before the CIT (Exemption), Delhi for granting the registration u/s 12A of the Income Tax Act and recognition u/s 80G of the Act. Attending the above application the learned CIT(Exemption) issued letter dated 13/10/2018 requesting assessee to submit certain documents in support of its claim for registration u/s 12A of the Income Tax Act. On perusal of the detail, he found that applicant has shown the income from subscription received from member, event revenue and sponsorship received on which tax deduction at source u/s 194 and 194C has been made. Therefore, he issued a specific show cause notice on 24/06/2019 to justify the professional fees received from the different parties on which the TDS is deducted. The assessee was also asked to furnish confirmation of the parties. He noted that assessee has received a total sponsorship amount of Rs. 2490000/- out of the total receipts of Rs. 2750500/- in Financial Year 2018-19 which constitutes more than 90% of the total receipt and therefore he held that sponsorship which was never voluntarily. Therefore, he held that the genuineness of the charitable activities cannot be established and therefore the condition for granting registration u/s 12AA is not satisfied. Accordingly, he rejected the application. Consequently he passed an order u/s 12AA (1) (b) read with section 12A and 80G(5)(vi) of the Income Tax Act on 28/06/2019. Therefore, the assessee is aggrieved and has preferred this appeal.

4. The Ld AR referred to the statements of facts filed along with the appeal and mentioned the object of the trust and event in which sponsorship was received. He submitted that activities of the assessee are charitable u/s 2(15) of the Act and they are genuine.
5. The learned Departmental Representative vehemently submitted that assessee is carrying on the activity, which was found to be non-genuine by the Commissioner of Income Tax (Exemption), Delhi, and therefore the application has been rejected.

6. We have carefully considered the grounds of appeal as well as the statement of facts raised by the assessee along with these appeals. Rival contentions were perused. The assessee has submitted that it has shown income from subscription received from the members and the event revenue and sponsorship income received by the assessee. It was further stated that in the month of January 2019 assessee has organized a symposium on 11 - 12/01/2019 wherein an amount of Rs 46,50,000/- were incurred which were contributed by various sponsors and others. Some of the sponsors who made their contribution have applied the provisions of section 194J of the act on payment to the assessee. It is claimed that assessee has received this money and applied for the charitable purposes u/s 2 (15) read with section 11 of The Income Tax Act. Merely because the donors of the assessee, sponsoring the event have deducted tax at source on sponsorship amount, it does not make the activities of the assessee non-genuine. In fact, the objects of the society are charitable in nature as they are specifically for creating an awareness about celiac disease and related conditions and to represent the needs of such awareness on a national level. Therefore, looking at the object of the trust, we do not find any reason to hold that it is not charitable in nature and not covered u/s 2 (15) of the act . With respect to the activities of the assessee, it has explained in detail that it has organized a symposium and from which some sponsorships were received on which the tax has been deducted by the donors or contributors. However, this does not show that the activities carried out by the assessee are not genuine. The learned CIT(E) has held that genuineness of the charitable activities cannot be established and therefore the condition for granting registration u/s 12 AA is not satisfied. We are not in agreement with the finding of the learned CIT(E) merely because the assessee has organized certain events which were sponsored by the various persons who have deducted tax at source on such sponsorship revenue, it cannot make the activities of the assessee non genuine. Further the finding of the learned CIT - A that total sponsorship amount of Rs 24.90,000/- out of the total receipt of Rs. 27,50,500/- has been

claimed by the assessee which constitutes more than 90% of the total receipt and therefore as the sponsorships are never voluntarily the quid pro quo action by the assessee cannot be ruled out. This finding is without any evidences that the activities of the assessee are not genuine. In view of these, we set aside the whole issue back to the file of the learned CIT – Exemption, New Delhi with a direction to reconsider the application of the assessee based on the objects of the society as well as the activities of the assessee with respect to its genuineness. The assessee is also directed to comply with all the notices and submit the complete details before the learned CIT exemption. The learned CIT exemption may pass the order in accordance with the law after granting an opportunity of hearing to the assessee on application of the assessee for registration u/s 12 AA of the act. On receipt of registration u/s 12 AA of the act, assessee is granted liberty to apply for recognition u/s 80G (5) of the act afresh, which may be considered on merit. Accordingly, the appeal of the assessee with respect to ground number 1 – 8 are allowed for statistical purposes with above direction.

Order Pronounced in the open court on 15/10/2019.

-Sd/-
(H.S.SIDHU)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated:15/10/2019
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi