



**IN THE INCOME TAX APPELLATE TRIBUNAL,
RANCHI BENCH, RANCHI**

**BEFORE S/SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER AND
LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.332/Ran/2018

Sri Ramjanki Tapovan Mandir, Nivarnapur, Chutia, Doranda, Ranchi-834 002	Vs.	CIT (Exemptions), Patna
PAN/GIR No.RCHSO 5132 B		
(Appellant)	..	(Respondent)

Assessee by : Shri S.N.Rajgarhia, FCA
Revenue by : Shri Inderjeet Singh, CIT(DR)

**Date of Hearing : 29/08/2019
Date of Pronouncement : /10/2019**

ORDER

Per Bench

This appeal has been filed by the assessee against the order j/s. 12AA(3) of the Income Tax Act, 1961 of the Commissioner of Income Tax(Exemptions). Patna dated 4.9.2018 cancelling the registration granted u/s.12AA of the Act.

2. Ld Authorised Representative (AR) of the assessee reiterated the written submissions placed on record of the Tribunal and submitted that the Id CIT(Exemptions), Patna has wrongly concluded that the activities of the trust are not genuine as it has violated the objects of the trust. Ld A.R. further submitted that the registration u/s.12AA of the Act was granted on



the basis of new trust deed executed on 20.9.2005 and, therefore, the earlier deeds are not relevant at all. Ld A.R. submitted that since the registration was granted on the basis of trust deed of 2005, the question of intimation to the department did not arise at all. Ld A.R. vehemently pointed out that the entire facts were available with the CIT(Exemptions) at the time of grant of registration u./s 12AA of the Act and the same was granted on the basis of trust deed executed on 20.9.2005. Ld A.R. pointed out that there was no violation of law or objects of the trust in adding clause authorising sale of land of the trust and, there was no change in the objects of the trust and no violation of either in income tax act or any other law of the country in executing a new trust deed in the year 2005. Thus, the CIT(Exemptions) was not justified in cancelling the registration of the trust.

3. Ld A.R. drew our attention towards para 19, 20 & 22 of the judgement of Hon'ble Supreme Court dated 1.5.2019 in Civil Appeal No.4003 of 2019 filed by the present appellant-assessee and submitted that the Hon'ble Supreme Court has categorically held that the Hon'ble High Court of Jharkhand has completely misdirected itself in directing the Central Bureau of Investigation to take over investigation in a matter, which relates to the rights of the trustees to sell property of a religious trust or Deity, giving rise to civil dispute. Ld A.R. submitted that in view of judgment of Hon'ble Supreme Court, the order of the Id CIT(E) cancelling the



registration cannot be held as sustainable. Thus, the registration granted to the assessee u/s.12AA of the Act dated 7.5.2012 may kindly be restored.

4. Replying to above, Id CIT (DR), first of all, submitted that even in a situation when the Hon'ble Supreme Court has struck down the direction of Hon'ble High Court of Jharkhand, wherein, the Hon'ble High Court directed the Central Bureau of Investigation to take over the investigation then also the order of cancellation of registration is sustainable looking into the facts and circumstances of the case.

5. Ld CIT DR drew our attention towards relevant operating para of the impugned cancellation order and submitted that the activities of the assessee trust are not genuine, it has violated the objects of the trust by changing original trust deed created in 1948, in the year 1987 and again in the year 2005 against the wishes of the founder and without intimation to the department. The Id CIT(E) also submitted that the assessee trust has entered into the development agreement and sold the land belonging to Deity, for which, Hon'ble High Court of Jharkhand has allowed the writ against the assessee trust and the Central Bureau of Investigation has also lodged an FIR against the Pujari and Trustee of the Trust for criminal conspiracy cheating and criminal misconduct. Ld CIT DR further pointed out that from the analysis of the entire facts and circumstances of the case, it is crystal clear that the objects of the trust are not genuine as it has violated the objects of the trust by changing original trust deed twice one



in the year 1987 and secondly in the year 2005, which is clearly against wishes of the founder trustee. Therefore, the Id CIT(E) was right in cancelling the registration.

6. On careful consideration of the rival submissions, first of all, we respectfully note that from the judgement of Hon'ble Supreme Court dated 1.5.2019 (supra) it is ample clear that the Hon'ble Supreme Court has struck down and dismissed the order of Hon'ble High Court of Jharkhand and thus, the direction of Hon'ble High Court to CBI to take over the investigation in the matter have been dismissed. Thus, we safely presume that presently, no investigation by the CBI is going on against Pujari and trustee, which relates to the rights of the trustees to sell property of a religious trust or Deity, giving rise to civil dispute.

7. Now, we proceed to decide the main ground of the assessee as to whether the CIT(E) was right in cancelling the registration granted to the assessee by order dated 7.5.2012.

8. From the impugned order, we observe that the CIT(E) took cognizance of the letter of Income Tax Officer (E) Ranchi dated 16.10.2017, wherein, the Assessing Officer has made recommendation to the CIT(E) that the trust deed created in 2005 with intent of changing the original trust deed of 1948 and 1987 by trustee who acted against the wishes of founder of the trust and land belonging to deity were sold for development and that



the trust created was not lawful going against the wishes of founder. The ITO (Exemptions) also intimated that the trusts were not competent to change the original trust deed and hence, the new trust deed created in 2005 was not genuine. Indicating the above glaring facts, the ITO recommended that the registration u/s.12AA of the Act may kindly be cancelled.

9. On being asked by the Bench, Id A.R. could not controvert the above observations of the ITO (Exemptions), which were noted by the CIT(E) while cancelling the registration. Further, Id D.R. drew our attention towards reply of the appellant vide dated 26.3.2018 to the show cause notice issued by the CIT(E) dated 18.12.2017. Id A.R. submitted that since the land graffers who were capturing the land day by day. Therefore, to save the interest of trust, the land was sold for the purpose of development and, therefore, the act of sale of land for development cannot be a basis for cancellation of registration u/s.12AA(3) of the Act.

10. It is also observed that we are in agreement with the contention of Id CIT DR that there is no complaint by the Pujari and founder of the trust regarding garbing of land. Therefore, the cause shown by the appellant for justifying the act of sale of land for development is not acceptable even by a man of ordinary prudent.



11. We may also point out that neither in the written submissions nor before the Tribunal nor in the reply dated 26.3.2018 to the show cause issued by the CIT(E), it has been mentioned or explained by the appellant that the sale proceeds from sale of land for development have been used or will be used for the development of charitable objects of the trust. Therefore, this factum was sufficient for CIT(E) for satisfying himself that the activities of the trust are not genuine or are not being carried out in accordance with the objects of the Trust. In this situation, the CIT (E) has very well empowered to pass order under section 12AA(3) of the Act cancelling the registration.

12. In view of foregoing discussion, we reached to a logical conclusion that the CIT(E) was right in cancelling the registration granted to the assessee on 7.5.2012 as the Pujari of the trust changed the original trust deed granted in 1948 and subsequent trust deed in 1987 against the wishes of the founder. The reasons stated by the appellant for sale of land of the trust for development is also not genuine, bonafide and thus, it is crystal clear that the activities of the trust were not genuine as it has violated the objects of the trust as well as the transferring the property of the trust without any good cause against the interest of trust. Accordingly, grounds of the assessee being devoid of merits, is dismissed.



13. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 on 30/10/2019.

Sd/-

(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

sd/-

(Chandra Mohan Garg)
JUDICIALMEMBER

Ranchi; Dated 30 /10/2019

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Sri Ramjanki Tapovan Mandir,
Nivarnapur, Chutia, Doranda, Ranchi-834 002
2. The Respondent. CIT (Exemptions), Patna
3. The CIT(A)-
4. Pr.CIT-
5. DR, ITAT, Ranchi
6. Guard file.
//True Copy//

By order

Sr. Pvt. Secretary,
ITAT, Cuttack