

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3320/Chny/2019

M/s. Suki Homes Trust,
51, 4th Phase, Kelamangalam Road,
Chamundi Nagar, Mathirigi,
Hosur- 635 110.
[PAN: AAOTS 6864L]

Vs. The Income Tax Officer
(Exemptions)
Salem.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by	:	Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mrs. R. Anitha, JCIT
सुनवाई की तारीख/Date of Hearing	:	01.04.2021
घोषणा की तारीख /Date of Pronouncement	:	06.05.2021

आदेश / **ORDER**

PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Exemption), Chennai, in Application No. CIT(Exemption), Chennai/2019-20/12AA/10902 dated 30.09.2019.

2. The Ld. A.R submitted that there was a delay of 06 days in filing the appeal. When the order of the Ld. CIT(Exemptions) dated 30.09.2019 received in the office, inadvertently the date of receipt was not noted down and the trustee was in bad health during the month of October, 2019. Due to which, the appeal was filed belatedly by 06 days. Since,

the delay is not wanton and the circumstances were beyond the control of the assessee, he pleaded that in the interests of justice, the delay may be condoned.

3. We have heard the rival parties and condone the delay.

4. M/s. Suki Homes Trust, the assessee, claimed registration u/s. 12AA of the Income Tax Act, 1961 (in short 'the Act') on 21.03.2019. The CIT(Exemption), Chennai examined the claim and observed that the assessee-trust is running old age home in the name of "Suki Homes Trust" at Hosur, Krishnagiri, the home consists of 34 flats, two villas and consists of a separate Dining Hall, Big Kitchen, store etc. which is fully occupied. There are 63 members staying in the home and the trust is taking care of them for their comfortable stay, timely food, Medical needs, visit to temples and outdoor visits to different places etc. and they are retired officers from Government body, Delhi Secretariat, LIC and Railways etc. The Ld. CIT(Exemptions) observed that it is noticed from the copy of lease agreement dated 1/1/2019 that the 35 flats were constructed by the trustees with the lease amount received from Suki Home Members. Rs. 85,73,052/- as on 31/3/2018 was shown as refundable members advance, which was mainly parked in the fixed deposit of bank. Thus, the trust has collected substantial amount from

the members. From this, it emanates that persons who cannot afford such huge amounts will not be given any services by the Trust and the activities of the trust cannot be treated as charitable in nature. As per the provisions of the sec. 13(3)(b) of the Act, any person who has made a substantial contribution to the trust in excess of fifty thousand rupees is classified as specified persons to whom no income of the trust can be used or applied u/s 13(1)(c) of the Act. In this case, the occupants, i.e. Suki Home members, though have contributed substantial funds for the construction of 35 flats, the same appears to be refundable, hence such contributions may not directly fall under the provisions of sec.13(3)(b) of the Act. However, these persons can said to be having indirectly interest in the trust and would be indirectly classified as specified persons. Thus, the benefit obtained by these persons would fall u/s 13(1)(c) of the Act. Therefore, the Ld. CIT(Exemption) held that the activities cannot be treated as charitable nature and accordingly rejected the assessee's claim and denied the registration u/s. 12AA of the Act. Aggrieved, the assessee filed this appeal.

5. The case was heard through video conferencing. The Ld. AR inviting our attention to the current liabilities in the balance sheet as on 31.03.2016 in the paper book submitted that refundable members advance as on 31.03.2016 was at Rs.84,35,072/-. Inviting our attention

to application of funds, he submitted that Rs. 80,71,878/- is held as fixed deposit. Similarly, he invited our attention to the balance sheet as on 31.03.2018 in the paper book and submitted that the refundable members advance was at Rs. 85,73,052/-, while the fixed deposit as on 31.03.2018 was at Rs. 1,02,76,000/-. Then, he invited our attention to the income and expenditure account for the period ended 31.03.2016 and submitted that the income comprised bank interest received of Rs. 6,97,504/- and the excess income over expenditure was just at Rs. 54,221/- only. Similarly, for the period ended 31.03.2018, the bank interest received was Rs. 5,53,394/- and the excess income over expenditure was just at Rs. 58,317. He submitted that the trustees have given their properties on free of cost for running the charitable activities and the advance received from the occupants are kept in the fixed deposits and the interest received from them is also used for the occupants well being. It is evident from the copies of the expenditure statement and the balance sheet that the trustees have not charged any money towards the usage of their property. The trust is managed by Shri G. Anantha Narayanan and Mrs. A. Rajeshwari, they are business enterprisers in Bangalore and have no issues and hence, they decided to be helpful to human kind. Therefore, they have opted to start old age home at Hosur and rendering the utmost services to human kind in

needy days. The occupants are retired Officers from Government bodies, Delhi Secretariat, LIC, Railways, TVS, Mahendras, Metrological Department, Baba Atomic Research Institute etc. The trust is taking care of about 63 members from the age group of 60 to 92 years, some are healthy, some are bed ridden having dementia/psycho/heart/neuro/parkinson's problems. The trust is taking care of the above members for their comfortable stay, timely food, medical attention, emergency hospital admittance, visit to temples, outdoor visit to different places etc. Unfortunately, the Ld. CIT(Exemptions) erred in giving a finding which is not in accordance with the trust activities and therefore, pleaded that the registration be granted u/s. 12AA of the Act. He also submitted that granting of registration u/s. 12AA of the Act does not prohibit the A.O or Revenue to examine the assessee's activities in future and in case the activities are found to be not in accordance with the provisions of the Act the authorities are empowered to act appropriately in accordance with law. Therefore, the Ld. AR submitted that since, the objects are not found to be charitable, therefore there is nothing to deny registration u/s. 12AA of the Act. Thus, the Ld. A.R pleaded that registration be granted u/s. 12AA of the Act to the assessee.

6. Per contra, the Ld. D.R supported the order of the Ld. CIT(Exemptions).

7. We heard the rival submissions and gone through the relevant material. It is clear from the copies of income and expenditure account and the balance sheet, which were audited by C.A and placed in the record that the trust does not own any property housing the occupants. It is submitted that the trust has not paid any rent or lease etc. to the trustees. Further, it was submitted that the trustees have given their own property for a noble cause, free of cost. The refundable advances collected from the members are held in the fixed deposits and the interest received along with members food and maintenance charges collected from the inmates are incurred towards the charitable activities leaving on a meager excess of income over expenditure for each of the year. Thus, the findings recorded by the Ld. CIT(Exemptions) are not borne from the record and hence, his order is not sustainable in law. Therefore, we allow the assessee's appeal with a direction to the Ld. CIT(Exemptions) to grant registration u/s. 12AA of the Act to the assessee.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on the day of 06th May, 2021 in Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)
(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(एस. जयरामन)
(S. JAYARAMAN)

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai, दिनांक/Dated: 06th May, 2021.
EDN, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF