

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No. 1769/Bang/2019
Assessment year: N.A.

Vidyaranya Seva Sangh, Vanite Ladies Hostel, Shanti Colony, Vishweshwara Nagar, Hubbali – 580 032. PAN: AAAJS 4355C	Vs.	The Commissioner of Income-tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Suman Lunkar, CA
Respondent by	:	Shri Devarathna Kumar, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	15.07.2021
Date of Pronouncement	:	15.07.2021

ORDER

Per Chandra Poojari, Accountant Member

This appeal is by the assessee against the order of the Commissioner of Income Tax (Exemptions), [CIT(E)] Bangalore passed u/s. 12AA(1)(b)(ii) of the Income-tax Act, 1961 [the Act].

2. The assessee has raised the following grounds:-

“1. The learned Commissioner of Income tax (Exemptions) has erred in passing the impugned order in the manner passed by him. The order passed being had in law, against the principles of natural justice and equity and is liable to be quashed.

2.1 The learned Commissioner of Income tax (Exemptions) has erred in rejecting the application filed for Registration U/s. 12AA of the LT. Act, 1961, on the grounds that:

- i) the appellant is having surplus year after years.
- ii) the object mentioned in the bye law does not fit into the definition of Charity.
- iii) It is not possible to verify the genuineness of the objects and the activities of the appellant
- iv) The registration granted u/s 12A of the Act was cancelled vide order dated 25/03/2014

On proper appreciation of facts of the case and the law applicable, the appellant is entitled for registration and hence, the conclusion drawn being contrary to facts and law applicable are to be disregarded and the appellant be granted Registration U/s. 12AA of I.T. Act, 1961.

2.2 On the facts and circumstances of the case, the appellant is eligible for the registration U/s. 12AA of the I.T. Act, 1961 and same is to be granted to it.

3. In view of the above and on other grounds to be adduced at the time of hearing, it is requested that the impugned order passed be quashed and the appellant be granted the registration U/s. 12AA of the I.T. Act, 1961 as applied for.”

3. The assessee trust applied for registration u/s. 12AA by filing Form 10A on 3.12.2018. Various documents called for were furnished by the assessee. The CIT(E) rejected the application filed by the assessee on the reason that bye law 6(6) stated that “*The funds and the income of the Trust/Society shall be solely utilized for payment to the Trustees/member by way of profit, interest, dividend, etc.*” According to the CIT(E), since this object does not fit into the definition of “charity” as envisaged in the Act, it was not possible to verify the genuineness of the objects and the activities

of the trust. Accordingly, he rejected grant of registration. Against this, the assessee is in appeal before us.

4. We have heard both the parties and perused the material on record. The Id. AR submitted that the assessee amended the bye laws and objectionable parts have been removed in the bye law, which was duly approved by the Registrar of Societies vide Endorsement dated 29.06.2019, a copy of which is placed at page 47 of the PB. In our opinion, if the assessee carried out due amendment in its bye laws, then the same requires re-examination by the CIT(E). Accordingly, we remit the issue in dispute to the file of the CIT(E) for reconsideration and decision in accordance with law.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 15th day of July, 2021.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 15th July, 2021.

/Desai S Murthy /

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.