

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, "B", CHANDIGARH**

**BEFORE SHRI N.K. SAINI, VICE PRESIDENT &  
SHRI R.L NEGI, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 1373/CHD/2019**

U/s 12A(1)(b)(ii)

Society For Clinical Gastroenterology, Block F, PGI, Sector 12, Chandigarh-160012	बनाम	The CIT (Exemptions) Chandigarh
स्थायीलेखासं./PAN NO: AAXTS2427E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

**Hearing through video Conferencing**

निर्धारितीकीओरसे/Assessee by : Shri Harish Nayyar, C.A.

राजस्वकीओरसे/ Revenue by : Smt. Kusum Bansal, CIT

सुनवाईकीतारीख/Date of Hearing : 26.08.2021

उदघोषणाकीतारीख/Date of Pronouncement : 31. 08.2021

**आदेश/Order**

**Per R.L. Negi, Judicial Member:**

The assessee has filed the present appeal against the order dated 24.09.2019 passed by Commissioner of Income Tax (Exemptions), Chandigarh, whereby the Ld. CIT(E) has rejected the application filed by the appellant/applicant for grant of registration u/s 12AA of the Income Tax Act, 1961 (for short 'The Act')

2. Brief facts of the case are that appellant society was formed under Society Registration Act, 1860 by expert and experienced doctors of the Post Graduate Institute of Medical Education and Research (PGIMER),

Chandigarh, for rendering medical services to public at large particularly to the poor segment by promoting awareness of early signs of cancer in common people, by conducting screening program holding camps and developing awareness for prevention of cancer, by conducting surveys on neoplastic and non-plastic disease and conducting research in the said field, updating knowledge in Clinical Gastroenterology by organizing conferences, symposia, seminars, workshops CEM etc. and by financially helping postgraduate students for attending conferences, symposia, seminars, workshops CEM etc. The society filed application in form No.10A before the CIT(E) for registration u/s 12AA of the Act on 06.03.2019. The Id. CIT(E) after perusing the details and documents filed by the society denied the registration holding that society has been created for advancement and supporting the qualified doctors, therefore the aims and objects are not for the welfare of public at large. Further the society has not stated any activity therefore it is not possible to verify the genuineness of the activities of the society for the purpose of granting registration.

3. The assessee has challenged the action of the Id. CIT(A) on the following grounds -

*“1. That the orders of the CIT(Exemptions), Chandigarh have been passed in haste and have ignored basic aspects and facts of the case thus causing undue hardship to the applicant.*

*2. That the CIT (Exemptions), Chandigarh has erred both on facts and law in rejecting the application filed under*

*Section 12A of the Income Tax Act, 1961 and denying to the appellant its right to seek registration under section 12 of the Income Tax Act.*

*3. That the CIT (Exemptions) Chandigarh has erred both on facts and law in holding that the objectives of the appellant are not for advancement of objects of general public utility for public at large but restricted to qualified section of public i.e. doctors only.*

*4. That the CIT (Exemptions) Chandigarh has erred both on facts and law in rejecting the application for grant of registration under section 12A of the Income Tax Act on the ground that the society has yet not commented its functioning and in the absence of activities, it is not possible to verify the genuineness of the activities.*

*5. That the appellant craves to add, delete, concede, modify any or all the grounds of appeal at the time of hearing of appeal”*

4. At the outset, the ld. counsel for the appellant/applicant submitted that the ld. CIT(E) has rejected the application in a mechanical manner without application of mind. The ld. CIT(E) has rejected the application wrongly holding that the society has been formed for advancement and support of qualified doctors and not for public at large. The ld. counsel further submitted that the aims and objects of the society clearly reveal that the society has been established for prevention/treatment of cancer by developing awareness, organizing conferences, seminars workshops etc. for updating knowledge in recent diagnostic facilities available, conducting research in the field of neoplastic and non-neoplastic diseases. The ld. counsel placing reliance on the decision of the

Chandigarh Bench of the ITAT submitted that since the findings of the Id. CIT(E) are contrary to the decision of the jurisdictional Tribunal in the case of *Society for the study of liver diseases vs. CIT(E) ITA No. 1104/Chd. /2016*, and in the case of *Pediatric Pulmonology Programme Trust vs. CIT ITA No 779/Chd/2014*, the same is liable to be set aside. The Id. counsel further pointed out that in the said cases the said society/trust having aims and objects similar to the aims and objects of the present society, filed applications for grant of registration u/s 12AA of the Act. The concerned CIT(E) rejected the applications for said society/trust holding that the aims and objects do not fall within the definition of charitable purposes under section 2(15) of the Act. The Chandigarh Bench of the Tribunal set aside the impugned orders passed by the concerned authorities holding that the society/trust are entitled for registration u/s 12AA of the Act.

5. The Id. counsel further contended that in the present case the Id. CIT(E) has wrongly observed that since the society has not commenced its activities, genuineness of its objects and activities cannot be seen for the purpose of granting registration. The Id. counsel placing reliance on the judgment of the Hon'ble Supreme Court in the case of *M/s Ananda Social and Educational Trust vs. the CIT and another 2020(2) TMI 1293 (SC)*, submitted that since the findings of the Id. CIT(E) are contrary to the law laid down by the Hon'ble Supreme Court, the impugned order is bad in law, therefore liable to be set aside.

6. On the other hand, the Id. departmental representative (DR) supporting the order passed by the Id. CIT(E) submitted that since the aims and objects of the society do not fall under the definition of charitable activities and since the society had not commenced any activity the Id. CIT(E) has rightly rejected the application for registration u/s 12AA of the Act.

7. We have heard the rival submissions of the parties and perused the material on record including the cases relied upon by the Id. counsel for the assessee. The Id. CIT(E) has rejected the application of the appellant/ society basically on the two grounds i.e., the aims and objects of the society do not fall within the definition of charitable purposes as defined in section 2(15) of the Act, and since the society has not commenced any activities, it is not possible to ascertain the genuineness of the activities for the purpose of granting registration.

8. As pointed out by the Id. counsel, the first issue is covered in favour of the appellant/society by the decision of the coordinate Benches of the Tribunal in the cases of *Society for the study of liver diseases vs. CIT(E)* and *Pediatric Pulmonology Programme Trust vs. CIT* (supra). The aims and objectives of the present society are almost identical to the aims and objects of the aforesaid cases. In the case of *Pediatric Pulmonology Programme Trust vs. CIT* the aims and objects of the societies were to provide medical assistance to poor patients, to promote research in the field of Pediatric Pulmonology, to purchase

books and other materials for training of postgraduates in Pediatric Pulmonology, providing fellowships to physicians to visit abroad to attend workshop, symposia and conferences etc. related to Pediatric Pulmonology, inviting doctors of international repute for sharing knowledge and experiences in the related fields. Similarly, in the case of *Society for the study of Liver Diseases vs. CIT(E)* the aims and objects were to provide medical assistance to the patients suffering from liver diseases and to hold conferences, symposia, seminars, workshops etc. in order to promote, educate and spread awareness and knowledge of liver disease. The aims and objects of the present society are almost identical to the aims and objects of the society and the trust discussed above since the appellant society has been formed for prevention and treatment of different kinds of cancer by developing awareness and acquiring knowledge by organizing conferences, symposia, seminars, workshops etc. and facilitating the research scholars in pursuing advance study in that particular field.

9. So far as the second issue is concerned, the same is also covered in favour of the appellant/society by the judgment of the Hon'ble Supreme Court in the case of *M/s Ananda Social and Educational Trust vs. the CIT and another*, whereby the Hon'ble Apex Court has upheld the findings of the Hon'ble Delhi High Court holding that a newly registered trust is entitled for registration u/s 12AA of the Act on the basis of its

objects, without any activity having been undertaken. The observations of the Hon'ble Supreme Courts are as under: -

*“No activities had been undertaken by the respondent Trust before the application was made. The Commissioner rejected the application on the sole ground that since no activities have been undertaken by the trust, it was not possible to register it, presumably because it was not possible to be satisfied about whether the activities of the trust are genuine. The Income Tax Appellate Tribunal, Delhi (for short, the Tribunal) reversed the order of the Commissioner. The Revenue Department approached the High Court by way of filing an appeal. The High Court upheld the order of the Tribunal and came to the conclusion that in case of a newly registered trust even though there was no activities, it was possible to consider whether the trust can be registered under section 12AA of the Act. This judgment is assailed before us.*

*Section 12AA undoubtedly requires the Commissioner to satisfy himself about the objects of the trust or institution and genuineness of its activities and grant a registration only, if he is so satisfied. He said section requires the Commissioner to be so satisfied in order to ensure that the object of the trust and its activities are charitable since the consequence of such registration is that the trust is entitled to claim benefits under sections 11 and 12 of the Act. In other words, if it appears that the objects of the trust and its activities are not genuine that is to say not charitable the Commissioner is entitled to refuse and in fact bound to refuse such registration.*

*It was argued before us that the Commissioner is required to be satisfied about two objects of the trust and secondly, its activities are genuine. If there have been no activities undertaken by the trust then the Commissioner cannot assess whether such activities are genuine and therefore, the Commissioner is bound to refuse the registration of such a trust.*

*We have given our anxious consideration to the above submissions made by Ms. Ashwarya Bhati, learned Senior Counsel appearing for the appellant – Director of Income Tax and find that it is not possible to agree with the same. The purpose of section 12AA of the Act is to enable registration only of such trust or institution whose objects and activities are genuine. In other words, the Commissioner is bound to satisfy himself that the object of the Trust are genuine and that its activities are in furtherance of the objects of the Trust, that is equally genuine.*

*Since section 12AA pertains to the registration of the Trust and not to assess of what has actually done, we are of the view that the term ‘activities’ in the provision includes ‘proposed activities. That is to say, a commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust.*

*We, therefore, find that the view of the Delhi High Court in the impugned judgement is correct and liable to be upheld.”*

10. Since both the grounds, on the basis of which the Id. CIT(E) has rejected the application of the appellant/society are covered in favour of the appellant/society by the decisions of the coordinate Bench and the judgment of the Hon'ble Supreme Court, discussed in the foregoing

paras, we find merit in the contention of the ld. counsel that the impugned order passed by the ld. CIT(E) is erroneous and liable to be set aside. In our considered view, the ld. CIT(E) has erred in rejecting the application of the appellant society. Hence, respectfully following the decisions of the coordinate Benches of the Tribunal and the ratio laid down by the Hon'ble Supreme Court in the case aforesaid, we allow the present appeal and set aside the order dated 24.09.2019 passed by the ld. CIT(E) and accordingly direct the ld. CIT(E) to grant registration to the appellant society u/s 12AA of the Act.

In the result, the appeal of the assessee is allowed.

Order pronounced on 31.08.2021.

Sd/-

( N.K. SAINI)

उपाध्यक्ष / Vice President

Sd/-

(R.L.NEGI)

न्यायिक सदस्य / Judicial Member

**Dated : 08 .2021**

“आर.के.”

आदेशकीप्रतिलिपिअद्येषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,

सहायकपंजीकार/ Assistant Registrar