

IN THE INCOME TAX APPELLATE TRIBUNAL "A"
BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Manish Borad, Accountant Member

I.T.A Nos.601&593/Kol/2020

Measurers Club.....Appellant

Plot 37,38, Tent Maidan,
Kolkata-700021.

[PAN: AACAM4944L]

vs.

CIT(Exemption), Kolkata.....Respondent

Appearances by:

Shri P.K. Roy, Advocate, appeared on behalf of the appellant.

Md. Ghayas Uddin, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 2, 2022

Date of pronouncing the order : March 2, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present two appeals have been preferred by the assessee against the separate orders both dated 26.09.2020 of the Commissioner of Income Tax (Exemption), Kolkata [hereinafter referred to as 'CIT(E)'] rejecting the application of the assessee for registration of the assessee-trust as charitable institution u/s 12AA of the Income Tax Act (hereinafter referred to as the 'Act'). Along with the present appeal, another appeal has been preferred by the assessee against the rejection of the application of the assessee for registration as charitable institution u/s 80G of the Act.

2. At the outset, the Id. counsel for the assessee submitted that so far as rejection of application u/s 80G is concerned, the same has been rejected because of the fact that the application of the assessee-trust for registration u/s 12A has been rejected.

3. So far as the rejection of application for registration u/s 12A is concerned, the Id. counsel for the assessee has submitted that the assessee-trust was created in 1902 and the assessee-trust in the year 2017 had moved an application for registration u/s 12A of the Act. However, the assessee-trust could not produce the copy of the trust deed containing

aims and objects of the trust. Therefore, the application of the assessee for registration u/s 12AA of the Act was rejected by the then CIT(E).

The assessee filed appeal before the Tribunal. The assessee pleaded before the Tribunal that the assessee was ready to furnish necessary documents before the CIT(E). The Tribunal vide order dated 26.10.2018 remanded the matter to the CIT(E) to decide the same afresh after examining the documents, if any, furnished by the assessee to prove the creation of the trust and aims and objects of the trust. The ld. counsel has further submitted that the assessee could not trace the original trust deed and evidence of creation of trust. Therefore, under the circumstances, a new trust deed was executed depicting therein the aims and objects of the trust. Thereafter, the original application was withdrawn and a new application was filed for registration u/s 12AA of the Act. The ld. counsel has further invited our attention to the paper-book page 1 to 85 to submit that along with the application for registration, the required documents were also uploaded at the website of the Department. He has invited our attention to the copy of the trust deed wherein the aims and objects of the trust has been mentioned. He has further invited our attention to the impugned order of the ld. CIT(E) to submit that the ld. CIT(E) has rejected the application on the ground that the assessee-trust has not furnished the copy of the documents evidencing the creation of the trust or establishment of the institution. The ld. counsel has further submitted that even the evidence relating to registration of the trust with the Additional Registrar of Assurance was also uploaded along with the application. However, the ld. CIT(E) has rejected the application only on the ground that the assessee had not furnished evidences relating to the creation of the trust in the year 1902.

4. On the other hand, the ld. DR has submitted that in fact it is revealed from the perusal of the order of the CIT(E) that the assessee did not furnish evidences for creation of the trust in the year 2017 also.

5. We have heard the contentions of both the parties and gone through the records. A perusal of the paper-book/documents furnished by the assessee reveals that the assessee had uploaded the required documents along with the online application for registration of the trust u/s 12A of the Act. However, it seems that the ld. CIT(E) has not taken into

consideration these documents while rejecting the application of the assessee-trust. Even otherwise, if there was any doubt or the ld. CIT(E) required any other documents, in this respect, he could have asked the assessee-trust to produce the same. However, the ld. CIT(E) proceeded to reject the application without giving any opportunity to the assessee to present its case and appraise the ld. CIT(E) about the documents attached with the application. So far as the contention of the ld. counsel for the assessee that the application was rejected on the ground that the assessee could not produce the evidence relating to the original trust deed of 1902, in our view, the assessee was not supposed to produce the said trust deed as it is the case of the assessee-trust that the same was not traceable. Under the aforesaid circumstances, the ld. CIT(E) at the most could have treated the assessee trust to have been created in the year 2017 and decided the application of the assessee-trust accordingly. The date of creation of trust is not relevant in this case for the purpose of registration u/s 12A of the Act, rather, what is important as to see whether the aims and objects of the trust along with such other relevant factors, entitle it for registration u/s 12A of the Act.

Accordingly, in our view, the impugned order of the CIT(E) is not sustainable and the same is, accordingly set aside and the ld. CIT(E) is directed to decide the application of the assessee-trust for registration in the light of the observations made above. In view of this, the order of the CIT(E) dated 26.09.2020 in relation to the application of the assessee-trust for registration u/s 80G is also set aside. The ld. CIT(E) would decide both the applications of the assessee-trust in accordance with law in the light of the observation made above.

6. In the result, both the appeals of the assessee-trust are treated as allowed for statistical purposes.

Kolkata, the 2nd March, 2022.

Sd/-
[Manish Borad]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 02.03.2022.

RS

Copy of the order forwarded to:

1. Measurers Club
2. CIT(Exemption), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches