

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 368/Chny/2020

Schools of Equality Foundation,  
No. 7, Kalakshetra Avenue, 2<sup>nd</sup> Street,  
Thiruvanmiyur, Chennai 600 041.

Vs. The Commissioner of Income  
Tax [Exemption], Aayakar Bhavan –  
Annexe Building, No. 121, Mahatma  
Gandhi Road, Nungambakkam,  
Chennai 600 034.

[PAN:AAPTS4749F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Sandeep Bagmar, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 22.02.2022  
घोषणा की तारीख /Date of Pronouncement : 05.05.2022

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Exemptions), Chennai, dated 30.11.2019 passed under section 12AA of the Income Tax Act, 1961 ["Act" in short].

2. The appeal filed by the assessee is delayed by 16 days in filing the appeal before the Tribunal, for which, the assessee has filed a petition for condonation of the delay in the form of an affidavit, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee

was prevented by sufficient cause, the delay of 16 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Facts are, in brief, that the assessee filed an application in Form 10A for registration under section 12AA of the Act on 11.05.2019. The application filed by the assessee was considered by the Id. CIT(E) and directed the assessee to file certain details. After considering the submissions of the assessee, the Id. CIT(E) has observed that the assessee, M/s. Schools of Equality Foundation mainly works in the area of creating awareness and conducting sensitization programmes about equality and social justice in schools. The Id. CIT(E) asked the assessee to explain as to how the assessee's case is different from a business enterprise since the perusal of the statements of account for the Financial Years 2015-16, 2016-17, 2017-18 and 2018-19 show revenues from operations which are more than the cost and there is accumulation of excess income year after year. The AR of assessee has submitted before the Id. CIT(E) that the assessee Trust is a non-profit company with an aim to educate children on issues relating to equality and discrimination and conducted classes to sensitize the children to inequalities entrenched in the society and such activities are conducted once a week by a trained facilitator. It was submitted that the schools which have worked with the

assessee company reported a decline in bullying and discrimination and have received positive feedback from children, parents and teachers. It was further submitted that the assessee company has worked with schools in Chennai, Pollachi, Bangalore and Kadappa and also have conducted programmes in private and corporation schools. It was further submitted that they did not charge for corporation schools, whereas, sums were charged for private schools. After considering the submissions of the assessee, the Id. CIT(E) has noted that there is no material available to establish that the assessee indeed is conducting such classes free of cost to the corporation schools. Profit and Loss account shows collection of fee from conducting such programmes and after incurring expenses towards such Purposes, the assessee was left with surplus year after year. The Id. CIT(E) has further noted as per the provisions of Sec 2(15) of the Act, "charitable purpose" includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility. Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any

service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless -

- (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- (ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;

3.1 After noting that the case of the assessee falls under advancement of any other object of general public utility limb of section 2(15) of the Act, the Id. CIT(E) has held that the activities of the assessee cannot be treated as charitable in nature and since the assessee has failed to comply with the requirements of registration as contained in section 12AA(1) of the Act, the Id. CIT(E) rejected the assessee's application for registration under section 12AA of the Act.

4. On being aggrieved, the assessee is in appeal before the Tribunal.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book filed. The main objects of the assessee are reproduced as under:

*“The objects for which the company is established are:*

- (a) *To create awareness and conducting sensitization programs about equality and social justice in schools, colleges, other institutions and within the focal community.*
- (b) *To develop advocacy efforts within the community.*
- (c) *To conduct legal and academic research about inequality in the context of various forms of social identity including gender, class, caste, religion, sexuality and disability.*
- (d) *To Influence policy change in the field of education, women's rights and human rights.*
- (e) *To collaborate with other individuals and organizations working in the field of education, human rights and social justice to achieve our objects the doing of all such other lawful things as considered necessary for the furtherance of the above objects.*
- (f) *The objects of the Company are for general public utility without any discrimination on the grounds of race, religion, gender, caste and creed.*
- (g) *The Company is incorporated without a profit motive.*

*Provided that the company shall not support with its funds, or endeavour to impose on, or procure to be observed by its members or others, any regulation or restriction which, as an object of the company, would make it a trade union."*

6. Before us, the Id. Counsel for the assessee has submitted that the main objects of the assessee is to create awareness and conducting sensitization programmes about equality and social justice in schools, college, other institutions and within the local community. He further submitted that the assessee was only charging for the classes conducted in private schools and not from corporation schools. He also submitted that wherever the assessee has conducted classes, there is positive response from schools and also submitted that the assessee is carrying out its activities successfully.

7. The case of the Department is that the assessee has not filed any details in respect of activities carried out by the assessee. It was the submissions of the Id. DR that the assessee has not placed any material to show that the assessee has not collected any fee from corporation schools. In view of the above, the Id. CIT(E) came to a conclusion that the activities of the assessee is hit by provisions of section 2(15) of the Act and held that the assessee is not eligible for registration under section 12AA of the Act.

8. Per contra, besides relying upon various case law in the form of paper book, the Id. Counsel for the assessee has relied on the decision in the case of Investor Financial Education Academy v. ITO [2020] 121 taxmann.com 281 (Madras), wherein the Hon'ble Jurisdictional High Court has noted that it was clearly spelt out in the Memorandum of Association of assessee that the income and profit of company, whatsoever derived would be applied solely for promotion of its objects as set forth in the memorandum and merely because the assessee earned certain revenue, it could not be said that the activities of the assessee were not charitable so as to cancel its registration under section 12AA of the Act. Keeping in view of the facts and circumstances of the case, we are of the considered opinion that the issue has to be remitted back to the

file of the Id. CIT(E) to consider the issue afresh in accordance with law. We also direct the assessee to file the details of activities carried out by the assessee in corporation schools on free of cost as well as other public schools before the Id. CIT(E) and the Id. CIT(E) shall consider the same and pass order afresh keeping in view of the judgement of Hon'ble Jurisdictional High Court in the case of Investor Financial Education Academy v. ITO (supra).

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 05<sup>th</sup> May, 2022 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 05.05.2022

Vm/-

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.