

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H": NEW DELHI

BEFORE SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No. 7803/Del/2019

Public Police, GF-21, Hans Bhawan, 1, Bahadur Shah Marg, IP Estate, New Delhi PAN: aaetp0034b (Appellant)	Vs. CIT(A), New Delhi (Respondent)
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Assessee by :	None
Revenue by:	Shri M. Baranwal, Sr. DR

Date of Hearing:	12/07/2022
Date of pronouncement:	14/07/2022

O R D E R

PER ANUBHAV SHARMA, J. M.:

1. The appellant has come in appeal against the order dated 30.08.2019 passed by the Id Commissioner of Income Tax (Exemption) [in short the Id CIT(E)] u/s 12AA of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by which an application granting registration u/s 12AA was rejected and consequently, approval u/s 80G was also rejected.

2. The facts in brief are that the Assessee filed application electronically in Form No. 10A and Form 10G on 16.02.2019 seeking registration u/s 12AA and exemption u/s 80G of the Income Tax Act, 1961. The Id CIT(E) called for necessary information and based upon the information about the activities undertaken by the Assessee the Id CIT(E) concluded that the activities are not strictly charitable and also observed

that grant of registration have potential of misuse. Thus, the applicant has approached this Tribunal raising following grounds of appeal:-

"1 On the facts and in the circumstances of the case and in law the order of the Ld. Commissioner of Income Tax (Exemptions), Delhi rejecting the application for Registration u/s 12AA of the Income Tax Act, 1961 is arbitrary, misconceived, fallacious and illegal and having been done on imaginary, fictitious and unsubstantiated grounds must be quashed with further directions to grant the registration as sought.

2 On the facts and in the circumstances of the case and in law the order of the Ld. Commissioner of Income Tax (Exemptions), Delhi rejecting the application for Registration u/s 80G(5)(vi) of the Income Tax Act, 1961 is arbitrary, misconceived, fallacious and illegal and having been done on imaginary, fictitious and unsubstantiated grounds must be quashed with further directions to grant the registration as sought."

3. As the case was called for hearing, none appeared on behalf of the Assessee. Notices were issued for hearing on 22.04.2022 for today. Due to non-return of the notices, 30 days of issue by registered post with acknowledgement, drawing presumption of service, as none has appeared for the Assessee, the argument of the Id Sr. DR heard who endorsed the orders of the Id CIT(E).

4. Appreciating the matter on record it can be observed that in the impugned order the Id CIT(E) has taken into consideration the objects in general which have been mentioned in para Nos. 2, 3 and 4 as under:-

"2. The object of the trust has been mentioned in Form 10A as:-

"To Promote healthy relationship between public and police and redressal of public grievances related to crime, whole India and abroad."

The trust has been settled by Sh. Rakesh Kumar Maheshwari and the founder trustees include many prominent personalities. While the objects are in general for the benefit of the public, some the objects of the applicant are strictly not charitable as per u/s 2(15) of the Act, 1961, given as under:-

- (i) *"iii To encourage and educate general public to assist the Police department to curb unlawful activities, and act against criminals "*
- (ii) *ix...To coordinate with the appropriate authorities in respect of civil and criminal matters,*
- (iii) *xxi ...Regular dialogue and rapport with central, State Government and*

3. *Information on the activities undertaken by the assessee was filed. It is seen that the applicant has filed a letter dated 09.06.2019 in respect of its activities details, which was addressed to the Hon'ble Chief Minister, U.P. Some of the contents from that letter are as under:-*

"..2...To take action against the erring Police Officers of the Police Station of Tappal who were responsible for dereliction in performing their duty..

3. To book the culprits in Posco act and NSA and submit charge sheet in Fast Track Court forgetting justice in Fast Trek Court.."

These activities are not strictly charitable and to some extent attempt to encroaching upon Government's functioning.

4. *Also the applicant has given a note on key activities, which is as under:*

Crime Reduction:

The Public-Police will advocate for alternatives to arrest and incarceration as a means of reducing crime. Programs will be initiated in increasing the use of restorative justice and to that effect Conferences in reforming the money bail system and reforming parole and probation systems will be held."

On perusal of the details/objects of the Public Police from the Trust Deed dated 22.01.2019, the name of the applicant appears to be that of a Government Agency. It is also seen that Public Police is using a symbol similar to Government Agencies which may deceive general public while dealing with the Trust.

In view of these it appears that the main purpose of the Trust is to establish itself as a shadow or parallel of the agencies by the Government and the Police of the country. Accordingly, on 23.08.2019 vide note-sheet, an explanation has been asked as per under:

- (i) *Please explain how the activities carried out by the Trust is charitable in nature as defined u/s 2(15) of the I. T. Act...*
- (ii) *As per the Deed, the charitable objects & purposes in India and abroad, pi. Explain."*

5. Though the applicant had tried to explain to Id CIT(E) about its activities as referred in para 5 of the order and reproduced below:-

5. In response to explanation, the applicant has filed its reply on 26.08.2019, wherein the applicant has given a note on activities done since its inception, are as under:-

- i) "...(C) The Trust has started the Water bottle distribution to the Traffic Police and Police Personals at the place where the water is required.*
- ii) (D) The Trustees had visited to the Police Stations and discussed with SHO and DCP for the problem of their families..."*

The activities of the applicant are not in line for the charitable purposes for public at large accordingly and not in accordance with the provisions of section 12AA which stipulate the following conditions for registration u/s 12A of the IT Act, 1961:-

- (i) The objects of the society/Trust should be of charitable in nature.*
- (ii) The activities of the society/Trust should be genuine.*

So far as the object of carrying out activities outside India is concerned, the assessee has explained with judicial decisions that same should not be a bar for the 12AA registration. However, as the provision of section 11 permits application on charitable activities carried out within India, object prevention of crime outside India cannot form part of the main object of an assessee."

6. The settled position of law is that the Id CIT(E) has to satisfy himself after calling for documents or information from the applicant about the genuineness of the activities of the trust or institution and the object of the trust. Primarily the dominant object has to be examined and the burden is on the Assessee to establish that the institution is established for the benefit of the public for charitable or religious purpose.

7. In the case in hand the Id CIT(E) has given due indulgence to the objects desired to be attained and which on face indicate that the intention is not to benefit general public for any charitable or religious purpose but to create an institution which would be helping the police authorities and Govt. in enforcing proper administration of criminal justice on voluntarily basis. The purposes for which present institution is

established reflect the interests and concerns of its founders as part of Civil Society to work on voluntary basis as influencers for effective criminal law enforcement agency. However, every voluntary activity is not charity. A charity should not duplicate or replace what is the obligation of the State to provide. The maintenance of law and order and police forces is the constitutional duty of State. As such no institution can seek to complement and supplement that duty of the State, in the name of charitable activity. Same has been the foundation of findings of Ld CIT(E). No apparent reason appears for interference in the rejection of application. Grounds raised have no merit. The appeal is dismissed ex parte.

Order pronounced in the open court on 14/07/2022.

-Sd/-
(B.R.R. KUMAR)
ACCOUNTANT MEMBER

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated:14/07/2022
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi