

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR  
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM  
आयकर अपील सं./ITA No.106/RPR/2018

निर्धारण वर्ष / Assessment Year :2017-2018)

Pragatisheel Chhattisgarh Satnami Samaj, Guru Ghasidas Sanskritik Bhawan, New Rajendra Nagar, Raipur	Vs	CIT(Exemption), Bhopal
PAN No. : <b>AACAP 6768 P</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri R.B.Doshi, CA
राजस्व की ओर से /Revenue by	:	Shri P.K.Mishra, CIT- DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	26/07/2022
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	21/09/2022

**आदेश / O R D E R**

**Per Arun Khodpia, AM :**

This appeal is filed by the assessee against the order passed by the CIT(E), Bhopal, dated 25.04.2018, wherein the assessee has raised the following sole ground :-

- Ld Commissioner of Income Tax (Exemption) was not justified in rejecting application filed by appellant for registration u/s 12A and in refusing to grant registration without appreciating the facts of the case properly. The rejection order passed by CIT (Exemption) u/s 12AA(1)(b)(ii) is arbitrary, illegal and not justified. The appellant is entitled for registration u/s 12A.;*
- The appellant reserves the right to amend, modify or add any of the grounds of appeal.*

2. Facts in brief are that the assessee is a society registered under the Society Registration Act, 1973 before the Registrar of Societies, Chhattisgarh on 27.08.2012. The assessee applied for registration u/s.12AA of the Act in Form No.10A. On verification of the objects and activities of the assessee society, the CIT(E) found that the assessee

society is established for a particular community and almost objects are for the benefit of a particular community and carried out activities for the benefit of Satnami Samaj, which is a society publishing a magazine in every month in the name of "Satnami Sandesh". It was also observed by the CIT(E) that the donation of Rs.1,00,000/- paid to Grih Nirman and Satnam Sanstha which is not registered u/s.12A of the Act. Therefore, as per the CIT(E) the activities of the assessee society are for the enrichment of Satnami Samaj and, thus, attracts provision of Section 13(1)(b) of the Act. Further the CIT(E) observed that the assessee could not produce the details to prove to be doing charitable work for Satnami Samaj. Therefore, the CIT(E) rejected the application of the assessee filed for registration u/s.12AA of the Act.

3. Against the rejection of application of the assessee for registration u/s.12AA of the Act by the CIT(E), the assessee is now in appeal before the Tribunal.

4. Ld. AR before us filed paper book containing pages 01 to 124 and submitted that the assessee society has been engaged in spreading education and ethical knowledge especially among women and children, including social reforms and development, religious awareness, establishment of Satnami Centre for spiritual awareness etc. It was also the contention of the Id. AR that as per the bye laws of society, the objects and activities are not limited to Satnami Samaj only but to whole public at large. Objects mentioned in clause 4, 6 & 7 is not for any particular caste and community. It was also submitted by the Id. AR that the source of

application of funds by the assessee society is transparent, accounted and for the interest of public. Therefore, the Id. AR submitted that considering the objects and activities of the society, the assessee society is entitled for registration u/s.12AA of the Act. Also, rejection of the application of assessee society by triggering provisions of section 13(1)(b) of the Act was not called for, since, explanation 2 of the section 13 explains that “A trust or institution created or established for the benefit of Scheduled caste, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of subsection (1)”, It means a trust or institution created or established for the benefit of Schedule castes, schedule tribes or backward classes then such trust or institution cannot be denied exemption u/s 11 or 12 of the I.T.Act by invoking provisions of section 13(1)(b). Ld AR further drew our attention to the page 11-15 of its paper book, wherein as per notification by Department of Social Justice and Empowerment Government of India dated 26-10-2017 “Satnami” caste of Chhatisgarh State is categorised as Schedule Cast and accordingly has contended that provisions of section 13(1)(b) are not applicable in the assessee societies case. Ld AR in this respect relied on the order of coordinate bench of ITAT Raipur in ITA no 50/RPR/2018 dated 16.01.2019 in the case of Shree Vimalnath Jain Swetamber Mandir Trust, Raipur, wherein identical issue was raised by the assessee against the order of CIT(E) was decided in favour of the assessee. Since the issue is

already decided by the Raipur Bench in the similar circumstances, the present case is squarely covered by the same and therefore it was prayed by the Ld AR to set aside the order of Ld CIT(E) and direct him to grant registration u/s 12AA of the Act.

5. On other hand, Id. CIT. DR relied on the order of Id. CIT(E) and submitted that as the assessee society could not prove the working of the assessee society as charitable purpose, therefore, the CIT(E) has rightly rejected the application of the assessee for registration. Moreover, Ld. CITDR has drew our attention for provisions of section 12AA(1)(a) and (b) and argued that the CIT(E) was well within his powers and it his duty to call for all the necessary documents and information from the assessee trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such enquiries as he may deem necessary in this behalf. After satisfying himself about the object of the trust or institution and the genuineness of its activities, he shall pass an order in writing registering the trust or institution or if not satisfied shall pass an order in writing refusing to register the trust or institution. On this note Ld CITDR has contended that CIT(E) is duty bound by this provisions of the act and he can not allow to register a trust or institution till he verify and satisfy himself that the objects and genuineness of the trust. In the present case the assessee Society was failed to demonstrate or substantiate that the society is eligible for registration u/s 12AA of the Act. It is also submitted that the Ld CIT(E) has rightly rejected the application in form 10A of the assessee

society since the same was for the benefit of a particular community called "Satnami Samaj", therefore attracts provision of section 13(1)(b) of the IT Act. Therefore the CIT(E) has rightly refused the registration sought u/s 12AA and order of the Ld CIT(E) needs to be upheld.

6. We have heard rival submissions, perused the material evidence available on record and judicial pronouncement relied upon by the Ld AR. It is observed that the registration under section 12A was denied to the assessee society on the following grounds:

- (a) Society is established for a particular Community and almost objects are for the benefit of a particular community.
- (b) The JCIT/ITO has not recommended to grant registration u/s 12A on the same ground as in para (a) and not doing any charitable activity.
- (c) Explanation 2 of section 13 relied upon by the assessee is not acceptable because as per the said explanation it will be applicable to a trust or institution created for all schedule castes/tribes and not for a particular samaj or schedule community/caste.
- (d) Copy of accounts produced before the Ld CIT(E) also does not show any expenses to prove such claim by the applicant that the assessee society is doing charitable work for Satnami Samaj as well as for others.

7. To decide the above raised issues after carefully hearing both the parties, we have gone through the paper book of the assessee trust

showing brief activities of the society at page 16-88 which shows that the assessee society is doing charitable activities for others also.

8. Regarding duties of CIT(E) to be performed with respect to procedure for registration u/s 12AA(1)(a) and (b) Hon'ble Rajasthan High Court in the case of CIT Vs. Vijay Vargiya Charitable Trust in ITA No. 17/2014 has categorically held that at the time of granting registration, the objects of the Trust for which it was formed, is only to be looked into and the CIT's satisfaction about genuineness of activities of the Trust was not criteria as the Trust was just commencing activities. Hence the issue regarding satisfaction or genuineness of the activities of the trust is not a matter to be looked into at the time of granting registration u/s 12AA of the Act.

9. Regarding invoking provision of section 13(1)(b) coordinate bench of the ITAT Raipur in the case of Shree Vimalnath Jain Swetamber Mandir Trust (supra) has given the finding by respectfully following the observation of Coordinate bench of Pune in the case of Kul Foundation Vs. CIT in ITA no 1692/PN/2013 has held that where the conditions of section 13(1)(b) is attracted so to denying exemption u/s 11 and 12 of the Act is a matter to be looked into by the AO at the time of assessment proceedings. However, at the time of granting registration U/s 12AA of the Act, the main criteria which are to be looked into are:

- (i) Object of the Trust;

- (ii) Whether the trust has applied for registration u/s 12AA of the Act with proper details as enshrined in the Act.
- (iii) Whether the entire prescribed format for application as in the Act has been complied with;

Accordingly, where the Trust attracts section 13 (1)(b) of the Act and therefore, not entitle to the claim of deduction u/s 11 and 12 of the Act is a matter of concern only at the time of assessment proceedings.

10. The Hon'ble Gujarat High Court in the case of Commissioner of Income Tax Vs. Barkate Saifiyah Society, reported in (1995) 213 ITR 492 (GUJ)/(1995) 78 TAXMAN 6, has held that the provisions of section 13(1)(b) will apply only to the Trust which are purely for charitable purposes. If the assessee Trust has objects in both charitable and religious in nature, in such Trust, Section 13(1)(b) is not applicable. On perusal of the bye-laws of the assessee society it is evident that the assessee society has charitable as well as religious objects, therefore, squarely covered by the judgment of the Hon'ble Gujarat High Court in the case of Barkate Saifiyah Society (supra).

11. In view of the aforesaid discussion and on the basis of careful perusal of the facts, submissions and judicial pronouncements available before us, we are of the considered opinion that registration to the assessee trust cannot be denied on the basis of observation of the CIT(E) as mentioned herein above, also in absence of any decision brought to our attention by the revenue contrary to the findings of the hon'ble judicial forums, we, therefore, respectfully following the findings of upper courts

and coordinate benches of ITAT set aside the order of Ld CIT(E) and direct to grant registration u/s 12AA of the IT Act to the assessee.

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

Order pronounced as per Rule 34(4) of ITAT Rules,1963  
21/09/2022.

**Sd/-**  
**(RAVISH SOOD)**

न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ARUN KHODPIA)**

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 21/09/2022

*Prakash Kumar Mishra, Sr.P.S.*

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT,  
Raipur
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Assistant Registrar)**

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur