

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER &
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No. 362/Ind/2017

Samrat Ashok Technological Institute Degree, Civil Lines, Vidisha-464001 Madhya Pradesh	Vs.	Commissioner of Income-Tax (Exemption), Bhopal
PAN No. AAITS 0397 N		
(Appellant)	..	(Respondent)

ITA No.505/Ind/2017

Samrat Ashok Technological Polytechnic College, Civil Lines, Vidisha-464001 Madhya Pradesh	Vs.	Commissioner of Income-Tax (Exemption), Bhopal
PAN No. AAFAS 3109 J		
(Appellant)	..	(Respondent)

Assessee by :	None
Revenue by:	Shri P.K. Mishra, CIT-DR

Date of Hearing	01.12.2022
Date of Pronouncement	6.12.2022

ORDER

PER Ms. MADHUMITA ROY - JM:

These two appeals preferred by two different assesseees are directed against separate orders of the learned Commissioner of Income-tax (Exemption), Bhopal, dated 20.03.2017 and 25.05.2017 whereby and whereunder the applications for registration under Section 12AA of the Income-tax Act, 1961 (hereinafter referred as to 'the Act') have been rejected. As the issues involved are similar, these appeals were heard together and are being disposed of by a single consolidated order for the sake of convenience.

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2. We will take up ITA No.362/Ind/2017 as the lead case and the decision taken in this appeal will be applied to ITA No.505/Ind/2017 also.

3. At the time of hearing fixed in this case today, i.e. 01.12.2022, none appeared on behalf of the assessee nor any adjournment application has been filed before the Tribunal. It appears from the record that on 24.09.2019 the matter was dismissed for want of prosecution and subsequently the same was recalled by the Bench on 09.03.2020. It further appears from the record that thereafter on several occasions the matter was fixed for hearing, but no one represented on behalf of the assessee. Hence, under these circumstances, having no other alternative, we proceed to dispose of these appeals *ex-parte* qua the assessee(s).

4. We have heard the learned Departmental Representative who supports the impugned orders passed by the learned Commissioner of Income-tax (Exemption).

5. The brief facts leading to the case is this that the assessee made an application under Section 12AA of the Act in Form No.10A which was received by the Department on 28.09.2016. The applicant was given an opportunity of being heard in respect of the issue involved in the matter by issuing a notice dated 08.02.2017 fixing the date of hearing on 21.02.2017 so as to verify the objects/activities of the applicant and to ascertain the fulfilment of the conditions mentioned under Section 12AA of the Act. The assessee is run by Maharaja Jivaji Rao Education Society, Vidisha, but the application has been filed by the applicant namely Samrat Ashok Technological Institute (Degree) and not by the Society. The Society is registered with the Registrar of Firms & Societies, MP and has its Memorandum of Association and bye-laws governing its powers and legal obligations. Further that, the AICTE also recognizes the applicant institute functioning under the Society. Initially, on 16.02.2017, one Mr. N.K. Jain, CA

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attended the hearing before the learned Commissioner of Income-tax (Exemption), Bhopal; thereafter the matter was adjourned to 03.03.2017 for want of details as per the questionnaire and books of accounts with supporting bills and vouchers for FY 2015-16 for verification. As the applicant-institute does not have any independent legal status as distinct from the Society, a notice was issued by the Department upon the assessee to show-cause as to why the registration u/s 12A would not be denied. The case of the assessee before the learned Commissioner of Income-tax (Exemption) was that the applicant is an autonomous educational institution funded by Government and it has obtained separate PAN. Further that, it was contended before him that the Society only appoints the Board of Governors and Director for the applicant-Institute and for all other purposes and such plea was taken by the assessee by way of a letter dated 02.03.2017 which was not found to be acceptable by the learned Commissioner of Income-tax (Exemption) basically for the reason that the assessee has no legal status independent of the Society which has ultimate mandate and legal obligation vis-à-vis the applicant-Institute. Learned Commissioner of Income-tax (Exemption) observed that the application for registration under Section 12AA has been made by the Institutes run by the Society and not the said Society; therefore, the same is not maintainable. The learned Commissioner of Income-tax (Exemption) further observed that the assessee has neither filed any documents evidencing the objects of its own which is required to be satisfied by the learned CIT(E) before granting registration. Thus, the learned Commissioner of Income-tax (Exemption) rejected the application seeking registration u/s 12A of the Act with the following observations:-

“.... The assessee’s plea as per letter dated 02.03.2017 is not acceptable in view of the following points....

(i) The applicant namely Samrat Ashok Technological Institute has no legal status independent of the Society namely Maharaja Jivaji Rao Education

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Society, Vidisha, who has ultimate mandate and legal obligation vis-à-vis the Applicant Institute. However, instead of said Society filing application, it is an application from one of the Institutes run by the Society.

(ii) There is no separate instrument of creation or establishment and Memorandum of Association/byelaws/objects of its own in respect of applicant Institute. The applicant Institute is created through the objects and byelaws of Maharaja Jivaji Rao Education Society, Vidisha, who is not before the undersigned as per the application filed.

(iii) In Recognition certificate of All India Council for Technical Education (AICTE), name of the society under which the applicant Institute is functioning is clearly written as Maharaja Jivaji Rao Education Society, Vidisha signifying that it's the Society that is ultimate legal entity.

(iv) The Applicant-Institute can refuse to be sued in its own name because it is ultimately governed by the Society, which the legal entity.

(v) The Society has not obtained any Registration in its name u/s 12AA so far, which the parent body running the Applicant-Institute.

(vi) The Board of Governors of the applicant Institute are appointed by the Society including the Director of the said institute. Therefore, complete administrative command and control rest with Maharaja Jivaji Rao Education Society, Vidisha.

(vii) Lower Authorities have also not recommended the grant of Registration on the above grounds.

(viii) Before the grant of Registration, the Commissioner has to satisfy itself about the objects of the applicant, whereas, there is no document evidencing the objects of its own for the applicant. Therefore, there is statutory handicap to express any kind of satisfaction or otherwise.

6. In the light of aforesaid facts and circumstances and the legal position, after considering the reply furnished by the assessee, it is held that the applicant institution is not entitled for registration u/s 12AA of the I.T. Act, 1961. Accordingly the application in form No.10A received in this office on 28.09.2016 seeking registration u/s 12A is hereby rejected and registration sought u/s 12A is refused.”

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6. Upon careful consideration of the entire aspect of the matter and the reasoning given by the learned Commissioner of Income-tax (Exemption), we do not find any error in the impugned order rejecting the application of the assessee made under Section 12AA of the Act since the same has been filed by the applicant-Institute and not the Society. Further that, no evidence in order to satisfy the objects of the applicant-Institute was placed before the authorities below, which was also the pre-condition for granting registration. Furthermore, in the absence of any assistance rendered by the assessee in regard to the issue involved in this case before us, we do not find any lacuna and/or ambiguity in the order of the learned Commissioner of Income-tax (Exemption) so as to warrant interference; hence the same is hereby upheld. The appeal preferred by the assessee is, therefore, devoid of any merit and hence dismissed.

7. The issue raised by the assessee in appeal bearing No. 505/Ind/2017 is similar to the issue raised by assessee in ITA No.362/Ind/2017 (supra); therefore, for the detailed discussion made above in the case in ITA No.362/Ind/2017 (supra), this appeal preferred by the assessee is also dismissed.

8. In the result, both appeals filed by the assessee(s) are dismissed.

This Order pronounced on	6/ 12/2022
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Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER
Indore; Dated 6.12.2022

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT(A)
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Indore

- 1.Date of dictation on 01.12.2022
- 2.Date on which the typed draft is placed before the Dictating Member 02.12.2022
- 3.Date on which the approved draft comes to the Sr.P.S./P.S.
- 4.Date on which the fair order is placed before the Dictating Member for pronouncement
- 5.Date on which the fair order comes back to the Sr.P.S./P.S
- 6.Date on which the file goes to the Bench Clerk
- 7.Date on which the file goes to the Head Clerk.....
- 8.The date on which the file goes to the Asstt. Registrar for signature on the order.....
- 9.Date of Despatch of the Order.....