

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.119/Asr/2020  
Assessment Year: 2019-20**

Amritsar Diocese of Believers Eastern Church, VPO Bal Khurd Fatehgarh Churian Road Amritsar, Punjab. [PAN: AAGTA8769C] <b>(Appellant)</b>	<b>Vs.</b>	Commissioner of Income Tax (Exemptions), Chandigarh.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>Sh. Iqbal Singh, CA.</b>
<b>Respondent by</b>	<b>Sh. Hitendra Bhauraoji Ninawe, CIT.DR</b>

<b>Date of Hearing</b>	<b>22.12.2022</b>
<b>Date of Pronouncement</b>	<b>31.01.2023</b>

**ORDER**

**Per:Anikesh Banerjee, JM:**

The instant appeal was filed by the assessee against the order of the Commissioner of Income Tax (Exemptions), Chandigarh, [in brevity the CIT(E)] bearing No. DIN & Order No. ITBA/EXM/S/EXM1/2019-20/1026646938 (1) date of order 16.03.2020, order passed u/s 12AA(1)(b)(ii) of the Income Tax Act 1961, [in brevity the Act] for A.Y.2019-20. The assessee has raised the following grounds which are read as under:

- “1. *Lopsided, fractured and parochial interpretation as to the objects of the Trust by the Ld. CIT (Exemptions).*
2. *Rejection of Application for registration u/s 12AA.*
3. *A separate sheet is annexed hereto as to the detailed grounds of appeal and facts of the case.*

*1. The order passed by the Ld. CIT(Exemptions) is contrary and opposed to the facts and is devoid of the principals of natural justice (Audi alteram partem).*

*2. The Ld. CIT(Exemptions) erred in appreciating the objects of the Trust in its entirety and wholesomeness and passed orders on the basis of isolated and fractured readings of clauses (a), (c) and (n) of object clauses, while completely ignoring and overlooking the rest of the clauses of the Trust deed, which clearly state that the trust is for the welfare of the general public regardless of class, caste, creed and religion .*

*3. The Ld. CIT(Exemptions) in his first reason as to rejection for registration quoted clause (a) of the object clause of the bye laws which states as follows:*

*In line with the ethos, philosophy, culture and objective of the Trust of building, running and funding, Christian churches and to foster the spiritual and social growth of the Christian faith, this Trust shall establish Churches all over India under the name of Believers Church which works under the strict tenets embodied and codified in the written constitution of the Believers Church Trust, to which all the members at all levels have pledged their obedience and loyalty to all matters of faith and practices.*

*In this Clause, fostering the spiritual and social growth of the Christian faith is enshrined in the objectives of the Trust. It may be emphasised here that the Christian faith by and large believes in the service to humanity. In the Christian*

*faith, all human beings are equal and all are sons of God. Service to humanity is the service to Almighty, is one of the themes of the Christianity faith.*

4. *The Ld. CIT(Exemptions) also quoted clause (c) of the object clause while rejecting the registration under section 12AA of the Income Tax Act. The Clause (c) of the object clause reads as follows:*

*“To propagate the name of Lord, Biblical Teachings, Christian faith, gospel by holding arranging spiritual discourses and conferences, spiritual gathering, conventions, camps, lectures, training programmes, meetings, reading sessions, singing session seminars, symposiums, assemblies, walks. crusades, talks, campaigns, workshops, for understanding and glorifying God. Apostolic and catholic Church and its traditions, faith practices”.*

*It may be noted here that Christianity is a faith, which believes on one Lord and service to the entire humanity regardless of caste, creed and religion. It believes in the service of the entire humanity.*

5. *That while rejecting the registration application u/s 12AA of the Income Tax Act, Ld. CIT(Exemptions) also referred to Clause (n) of the object clause which reads as under:*

*The Trust and the Trustees shall endeavour to and shall do everything to follow the constitutions of Believers Church in letter and spirit. Further in all proceedings and matters of the Trust including but not limited to appointment and removal of trustees and managing trustee, amendment of the Trust objectives, amendment of the Trust Deed, operation of bank account of the Trust, management and disposal of the properties movable or immovable owned by the Trust, daily management issues, general*

*running and functioning of the Trust, the Board of Trustees shall be guided and advised by Episcopal Synod of the Believers Church and with final approval of the Metropolitan Bishop, the supreme head of the Believers Church whose decision shall be final and binding on all the members/trustees of the Trust. The Metropolitan Bishop may in his discretion attend all or any one or more meeting(s) of the board of trustees of the Trust either physically or via tele/video conference.*

*It may be noted here that this is the general and procedural clause which guides the trust as to its administrative and governing matters.*

*6. The object clauses of the Trust are being produced below for your ready and kind reference.”*

2. Assessee has filed an application for condonation of delay of 17 days wherein, assessee has stated that due to the pandemic Covid-19 the delay was happened for filing the appeal. Respectfully considering the order of Hon'able **Supreme Court of India in Suo Motu Writ Petition (C) NO. 3 of 2020 dated 10/10/2022** the delay of 17 days is condoned.

3. Brief fact of the case is that the assessee is a charitable trust duly executed by a trust deed which is registered with Sub Registrar of the State Government (Punjab), at Amritsar on dated 16.07.2018. The trust is charitable and religious in nature and is created for welfare of general public regardless of caste, creed and religious status. The assessee trust has filed application for registration u/s 12A on dated 29.09.2019 before the Id. CIT(E). The Id. CIT(E) passed the order u/s 12AA(1)(b)(ii) of the Act and rejected the application in the nature for violation of provision of section 13(1)(b)

of the Act due to operation only for Christian community. As per the assessee, the trust is formed for general public utility without considering any caste and creed. Being dissatisfied in the order of Id. CIT(E), the assessee filed an appeal before us.

4. The Id. counsel for the assessee submitted written submission which is kept in the record. The Id. counsel first invited our attention in the order of the Id. CIT(E) with reasons for rejecting application. The relevant paragraph 6 is reproduced as below:

*“6. In view of the above, it is held that the objects clearly restricts the operation to only a Christian Community which attracts the provisions of section 13(1) (b) of the Act. The application for grant of registration u/s 12AA is accordingly rejected.”*

4.1 The Id. counsel further in argument invited our attention in the object clause of the trust deed which was filed in **APB page no. 16 to 32**. The relevant part of the object clause is reproduced as below:

*“3. OBJECTS- The aim of the Trust is to foster the spiritual and social growth of the Christian faith; assist, promote, channelize, undertake, social, charitable and humanitarian work, educational activities, provision of medical assistance/services for the benefit of and to, the downtrodden, poor and under-privileged sections of the society, irrespective of caste, community and economic status, solely for philanthropic purpose and not for the purpose of profit and shall include to this end, without prejudice to the generality of the aims.”*

5. The Id. CIT. DR vehemently argued and relied on the order of the Id. CIT(E). As per his argument, that assessee trust is a religious organisation and specially made for the Christian community. The trust has violated the provision of section 13(1)(b) of the Act.

6. We heard the rival submission and considered the documents available in the record. The assessee-trust has filed application for registration u/s 12A of the Act. The object clause specifically mentioned that the trust is charitable in nature and the charity would be done without prejudice to any cast & creed. Primarily the object is never be barred by section 13(1)(b) of the Act. During registration of the trust the revenue authorities will verify the main object of the trust and the activities in relation to the main object of the trust.

6.1 In second issues, revenue has not made any adverse comment on activity of the assessee-trust. But in the first issue the revenue authority has expressed the grievance by rejection the application for registration. The Id. counsel for the assessee had fully relied order of the **ITAT, Amritsar Bench in ITA No. 442/Asr/2018 order dated 20.10.2022**. The Id. counsel relied on the relevant paragraphs from **11 to 13** of the order of ITAT, Amritsar Bench which are reproduced as below:

*“11. The Hon’ble Jurisdictional Punjab and Haryana High Court in the cases of ‘CIT(E), Chandigarh vs. Shirdi Sai Darbar Charitable Trust’, (Supra) has held as under:*

*The matter has been examined by the Tribunal after perusing the relevant statutory provisions. It has been*

*categorically recorded by the Tribunal that the Commissioner (Exemptions) has to satisfy two conditions while granting registration under section 12AA. Firstly, whether the objects of the assessee are charitable in nature and, thus, the activities are genuine. It cannot be concluded on the basis that the assessee has not filed its income tax returns in earlier years that the activities of the assessee are not genuine. It has been further recorded that section 13 comes into play at the time of granting exemption under section 11 and not at the time of granting registration under section 12AA. No adverse remarks have been recorded by the Commissioner (Exemptions) with regard to the objects contained in the memorandum of the assessee-trust to come to the conclusion that its activities are not genuine. Thus, it has been rightly directed by the Tribunal to the Commissioner (Exemptions) to grant registration under section 12AA. [Para 4]*

*12. The Hon'ble Apex court in the case of 'Ananda Social & Educational Trust v. CIT ', (Supra) held as follows:*

*Section 12AA undoubtedly requires the Commissioner to satisfy himself about the objects of the trust or institution and genuineness of its activities and grant a registration only if he is so satisfied. The said section requires the Commissioner to be so satisfied in order*

*to ensure that the object of the trust and its activities are charitable since the consequence of such registration is that the trust is entitled to claim benefits under sections 11 and 12. In other words, if it appears that the objects of the trust and its activities are not genuine that is to say not charitable the Commissioner is entitled to refuse and in fact, bound to refuse such registration. [Para 9]*

*The purpose of section 12AA is to enable registration only of such trust or institution whose objects and activities are genuine. In other words, the Commissioner is bound to satisfy himself that the object of the Trust are genuine and that its activities are in furtherance of the objects of the Trust, that is equally genuine. [Para 11]*

*Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, it is viewed that the term 'activities' in the provision includes 'proposed activities'. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust.*

*In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA. There the*

*Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust. [Para 12]*

*13. The Income Tax Act provides for exemption of income of charitable institutions under section 12AA of the Act and the section 2(15) of the Act defines the expression 'charitable purpose' and includes the relief of the poor, education, yoga, medical relief, reservation of environment (including water sheds, forest and wild life) and preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility. It is well settled law that where the purpose of a Trust is help to poor, medical relief, and advancement of objects of general public benefit/utility at large, the requirement of definition of 'charitable purpose' would be satisfied even if an activity of profit is carried on in the course of actual carrying out of the primary purpose of the Trust or the Institution. If a Trust's claim for charitable purpose is covered under the head of 'advancement of any other object of general public utility'. The question would arise whether the purpose of Trust or Institution involves the carrying on of any activity of profit. However, it would not be relevant as in the present case of the assessee Trust where the objects of the Trust comprise of relief of the poor, education or medical relief, etc."*

7. In our considered view, the observation which was taken in referred case by the bench is same view for the assessee-trust. The main object is indicated properly that

there is no violation of section 13(1)(b) of the Act. Ld. CIT-DR was not able to show any evidence against the submission of assessee during the hearing. Accordingly, the order of the Id. CIT(E) is set aside, and the revenue is directed to issue the registration to the assessee-trust as earliest.

8. In the result, the appeal of the assessee bearing **ITA No.119/Asr/2020** is allowed.

**Order pronounced in the open court on 31.01.2023**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order