

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

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
Dr. S. SEETHALAKSHMI, JUDICIAL MEMBER**

ITA Nos. 153/Jodh/2018
(ASSESSMENT YEAR- 2014-15)

Academic Society For High Achiever (ASHA), The Junior Study Ambavgarh, Udaipur.	Vs	The CIT- (Exemption), Jaipur.
(Appellant)		(Respondent)
PAN NO. AADTA 5798 E		

Assessee By	Shri Shrawan Kumar Gupta- Adv.
Revenue By	Shri Sanjeev Kumar Dev- CIT-DR
Date of hearing	19/01/2023
Date of Pronouncement	13/03/2023

ORDER

PER: Dr. S. Seethalakshmi, JM

This is an appeal filed by the assessee aggrieved from the order of the Learned Commissioner of Income Tax (Exemptions), Jaipur [herein after referred as "CIT(E)"] for the assessment year 2014-15 dated 15.03.2018 challenging the rejection of its application seeking registration u/s 12AA(1)(b) of the Act.

2. The assessee has raised the following grounds:-

“1. The Impugned order u/s 254/12AA(1)(b) of the Act dated 15.03.2018 is bad in law and on facts to the extent of period of for granting Registration and hence the same may kindly be directed to modify. And also erred in not comply the direction of the Honble ITAT in their true perspective and sense.

2.1 The Ld. CIT(E) erred in law as well as on the facts of the case in granting the Registration u/s 12AA(1)(b) from the date wef. 24.04.2016 in place of from the year in which the application u/s 12A filed by the assessee i.e from the year 2011-12 when the first application filed and second application in the year 2013- 14. The registration so allowed from the date 24.06.2016 u/s 12AA(1)(b) is contrary to the provisions of law and facts of the case. Hence the same kindly be directed to grant the Registration from the year when the first application was filled.

2.2 Alternatively and without prejudice to the above. The registration so allowed from the date 24.06.2016 u/s 12AA(1)(b) is contrary to the provisions of law and facts of the case. Hence the same kindly be directed to grant the Registration from the year when the Second application was filled i.e from the year 2013-14.

3. That the impugned order so passed was in the contravention of the law prevalent at the relevant point of time and also on fact and hence may kindly be directed to modify. Hence the Id. CIT(E) be directed to grant Registration u/s 12AA(1)(b) from the date of application.

4. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.”

3. The only grievance in this appeal for the assessee is against granting registration sought U/s 12AA of the Income Tax Act w.e.f 24.6.2016 and not from the date of application made on 21.3.2014.

4. During the course of hearing, the ld. AR of the Assessee has submitted that the Tribunal had restored the issue to the file of Ld CIT(E) in the first round of proceedings, by its order passed in ITA No. 513/Jodh/2014 on 05.05.2016 for examining the application of the assessee afresh. The ld. AR referred to paragraph 2.5 of the order passed by the Tribunal, which reads as under:-

“2.5 In this view of the matter, we hereby set aside and restore the appeal to the file of the ld. CIT to decide it afresh. The assessee is directed to place on record the modified trust deed and by-laws of the trust on the basis of which the ld. CIT would reconsider the application for registration u/s 12AA of the Act. Thus the grounds raised by the assessee are allowed for statistical purposes.”

The ld A.R submitted that the Trust was constituted on 17.01.2011 and thereafter the trust deed was amended by incorporating dissolution clause. Accordingly, the assessee had filed application two times before Ld CIT(E), i.e., first time in FY 2010-11 and second time in FY 2013-14. He submitted that there is no change in the objects of the trust on both the occasions. Accordingly, he submitted that the Ld CIT(E) was not justified in granting registration from the financial year in which the first application was made.

5. Per contra, the ld. Sr. DR relied upon the orders of the ld. CIT(E).

6. After hearing both the parties and perusing the materials available on record, it is noticed that the registration was granted from the date w.e.f. 24.04.2016 by Ld CIT(E). It is the submission of the assessee that it has filed an application in Form 10A in FY 2010-11 and also in FY 2013-14. It was submitted that the second application was filed after amending the trust deed by including dissolution clause and further, no change was made to the object clause of the Trust deed.

7. In view of the above, we find no reason for granting registration with effect from 24.10.2016. In our view, the registration should have been granted at least from the financial year 2014-15, during the period of which the second application was filed. We are not aware as to why the first application filed by the assessee in FY 2010-11 was not processed. If there is no valid reason for not processing the same, the Ld CIT(E) may also consider granting registration from FY 2010-11, during the period of which the first application was filed. With these observations, we restore the matters to the file of Ld CIT(E) with the direction to grant registration to the assessee as per the discussions made supra.

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

Order pronounced on 13/03/2023.

Sd/-

(B. R. BASKARAN)
ACCOUNTANT MEMBER

Sd/-

(Dr. S. SEETHALAKSHMI)
JUDICIAL MEMBER

Dated : 13/03/2023

**Santosh*

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Assistant Registrar
Jodhpur Bench