

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.1973/DEL/2020 [A.Y. 2019-20]

Geeta Vidya Mandir Samiti                      Vs.    CIT(E)  
C/o Kulwant Rai Chhabra                      Chandigarh  
Shop No.1,2, 3 & 4, Sikh Mission  
Market, Miri Piri Chowk,  
Kurukshetra, Haryana  
PAN No.AACTG4931G

(Applicant)

(Respondent)

Assessee By                      :    Shri K. R. Chhabra, Advocate

Department By                 :    Shri T. James Singson, CIT- DR

Date of Hearing                      :    11.09.2023

Date of Pronouncement         :    13.09.2023

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the ld. CIT(Exemption), Chandigarh, dated 18.09.2020 by which the CIT(Exemption) rejected the application for registration u/s. 12AA of the Act.

2. Representatives of both the sides were heard at length. Case records carefully perused and the relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

3. Briefly stated the facts of the case are that the assessee filed an application in form No.10A electronically on 27.11.2019 seeking registration u/s. 12A of the Act. The assessee is a society created on 26.09.2013 with objects stated to be to promote social welfare activities to spread education art, science, literature skill development to spread awareness against toxic substances to work for social welfare etc.

4. In order to examine the genuineness of activities of the society in the light of the relevant provisions of the Act the CIT(Exemption) issued a show cause notice vide which it was requested that the following documents/ clarifications be provided :-

1. *Please attach a certified copy of the Trust Deed/ Memorandum of Association and produce original copy for verification.*
2. *Please attach a copy of the proof of identity of the main Trustee/ President or Secretary of the Trust/ Society/ Non Profit Company.*
3. *A declaration that no part of the income of the Trust/ Society/ Non Profit Company enures, directly or indirectly for the benefit of any person specified in section 13(1)(c) of the Income*

*Tax Act, 1961 and that no part of the income or property of the Trust/Society/Company was ever used or applied for the benefit of any person specified in section' 13(1 )(c) of the Income Tax Act, 1961, duly signed by the Authorized Signatory.*

4. *Please attach a 'No Objection Certificate'<sup>1</sup> from the owner of the premises from which you are operating along with proof of his ownership.*
5. *Please attach details of donations made since inception/ during last three years.*
6. *Please attach details of donations received, including corpus donation, received since inception/ during last three years.*
7. *Please specify the category of charitable purposes provided in section 2(15) of the Income-Tax Act, 1961 in which your case falls, i.e., whether your objective is relief of the poor/ education/ yoga/ medical relief/ preservation of environment (including watersheds, forests and wildlife)/ preservation of monuments or places of artistic/historic interest/ advancement of any other object of general public utility/ religious activities.*
8. *An Affidavit giving clear undertaking that no fees charges etc had been collected for any services referred from the beneficiaries in violation of provisions of section 2(15) of Income Tax Act.*
9. *Copies of Audited balance Sheets, Income & Expenditure account along with complete annexure for the last 03 Years or since the beginning of the trust. Receipts and Payment accounts for the relevant years was also called for.*
10. *A note regarding charitable activities being conducted by the society. Along with clarification as regards which specific limb under section 2(15) of the I.T. Act was being pursued.*
11. *Justification about the claim of exemptions u/s 11/12 of I.T. Act along with a detailed note in the matter.*

12. *Details of property vested in the society, as envisaged u/s 11 of the I.T. Act, income from which was sought to be exempted.*
13. *Details of voluntary contributions received by the trust as envisaged u/s 12 of I. T. Act and whether any specific direction had been received by the persons making voluntary contributions.*
14. *Details of Land & Building purchased during last three years alongwith the copies of registration of the same in the name of society.*
15. *Proof of the ownership of land/building /fixed assets in case the same was owned by the society/trust.*
16. *Copies of I.T. Returns for last three Asst. Years along with computation of Income.*
17. *Details of corpus fund and whether the same were with any specific written directions.*
18. *Copy of Receipt & Payment Account of the entity for last three years along with the corroboration of the same with bank account.*
19. *Copies of the statements of all bank accounts maintained by the trust or by trustee/members for the last 03 years or since the inception of the society/ Trust.*
20. *Whether any registration under FCRA had been granted to trust.*
21. *Whether the applications for registration has been filed for the first time. The fate of the earlier application if any along with copy of the order.*
22. *Details whether any search or seizure or survey u/s 133-A had been carried out.*
23. *Affidavit giving the details of all the bank accounts maintained by the society be furnished and no society is not maintaining any other bank account except those disclosed before department.*
24. *Status of exemption claimed in the earlier years alongwith*

*the evidence may be furnished.*

*25. The details of the trustees/members being trustee/member/director in different society/trust/company may be furnished.*

5. The assessee filed a detailed reply which was considered by the CIT (Exemption). Further queries were raised which were also duly replied.

6. On perusal of the details the CIT(E) noticed that the assessee has received grants for building fund during F.Y. 2017-18 and grant for building fund Niti Ayog ATL during F.Y. 2018-19 on which was found that these funds were directly taken to the balance sheet. The CIT(E) was of the opinion that these funds should have been routed through P & L account and if the society had routed these funds through P & L account the gross receipts would have been more than Rs.1 crore and the assessee would not have claimed exemption u/s.10 (23C) (iiiad) of the Act.

7. Rejecting the application of the assessee the CIT(E) observed that the grants / funds received from the Government of Haryana is income of the assessee.

8. Before us, the Counsel for the assessee vehemently stated that the impugned grants are nothing but capital receipts and, therefore, were directly credited to the reserves and surplus in the balance

sheet. The Counsel further stated that the gross receipts of the society is also less than Rs. 1 crore and, therefore, it is eligible for exemption u/s. 10 (23C) (iiiad) of the Act and the CIT (E) has added grants / funds of two financial year.

9. We have given a thoughtful consideration to the order of the CIT (Exemption). In our considered view section 12AA of the Act empowers the PCIT or CIT (E) on receipt of an application for registration of a trust to call for such documents as may be necessary to satisfy himself about the genuineness of activities of the trust or institution and make enquiries in that behalf, it empower the commissioner to thereupon register the trust if he satisfy about the objects of the trust or institution and genuineness of its activities.

10. In our considered view section 12AA pertains to the registration of the trust and not to assess what a trust has actually done. That is to say the Commissioner is bound to consider whether the objects of the trust are 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.

11. For the above preposition we drawn support from the decision of the Hon'ble Supreme Court in the case of Anand Social And Educational Trust in Civil Appeal No.5437-5438/2012 order dated 19.02.2020.

12. Incidentally we find that on the same set of facts the PCIT has granted registration to the assessee for A.Y.2022-23 to 2026-27 as per the order at pages 33 to 35 of the Paper book.

13. Considering the facts of the case in totality in the light of decision of the Hon'ble Supreme Court we direct the CIT(Exemption) to grant registration to the assessee.

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

The order is pronounced in the open court on 13.09.2023.

**Sd/-**  
**[KUL BHARAT]**  
**JUDICIAL MEMBER**

**Sd/-**  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: SEPTEMBER, 2023.  
\*Neha\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi