

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI

BEFORE SHRI ABY T VARKEY, JM
AND
SHRI PRASHANT MAHARISHI, AM

ITA No. 2335/Mum/2023

(Assessment Year 2022-23)

Asmita Education and Healthcare
Foundation

Asmita House, Naya Nagar, Mira
Road, Maharashtra-401107

(Appellant)

CIT Exemption, Pune
422,3rd Floor, PMT Building,

Shankar Seth Road, Pune,
Maharashtra-411037

(Respondent)

PAN No. AAVCA3298G

Assessee by : Shri Anil Masand
Revenue by : Shri Ajay Chandra

Date of hearing: 12.10.2023

Date of pronouncement : 30.10.2023

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by the Schmidt the education and healthcare foundation (the assessee/appellant) against the order for registration or approval or rejection on cancellation passed by the CIT exemption, Pune dated 31/05/2023 wherein the CIT has held that the assessee company is not indulging into purely charitable activities and the genuineness of the activities undertaken till that date is also questionable. The assessee has failed to discharge its onus by establishing the credibility and genuineness of the activities undertaken and therefore the application made under section 12 A (1) (ac) (iii) of the act was rejected.



02. Assessee aggrieved with that is in appeal before us wherein the only grievance of the assessee is with respect to the rejection of the application for registration under section 12 AA of the act.
03. The brief facts of the case shows that the assessee is a company incorporated for carrying out charitable activities and registered under section 8 of the companies' act 2013. Provisional registration was granted by the CIT exemption as per order dated 27/10/2021. However, at the time of applying for the permanent registration under section 12 AB, the application was made on 26/11/2022. The assessee was assaulted details and explanation on 10/3/2023 by a letter dated 3/3/2023. The assessee submitted the relevant documents as per the version of the assessee on 10/3/2023. Certain additional information was also asked on 27/5/2023 fixing the date of hearing on 30/5/2023. These details were not possible for the assessee to compile within the required period and accordingly the adjournment was sought. Assessee also filed response to the extent possible on 30 May 2023. However, on 31/05/2023 the order was passed rejecting the application denying the registration. Therefore, assessee is aggrieved and is in appeal.
04. The learned authorized representative stated that adequate opportunity was not granted to it to submit the all the information. He submitted that the activities of the trust till today and the object also shows that it is not engaged in any commercial activities but educational



activities. Therefore as the assessee is carrying on the educational activities, which is a charitable object, assessee could not have enough time available with it to submit the details and therefore the denial of registration by the learned CIT exemption is not proper.

05. The learned CIT DR supported the order of the CIT exemption stating that when the adequate details are not furnished by the assessee, no fault can be found with the CIT in rejecting the application. Therefore, there is no merit in the appeal of the assessee.
06. We have carefully considered the rival contention and perused the order of the CIT exemption. We find that assessee is engaged in educational activities as per the memorandum of object. The provisional registration was granted to the assessee and therefore for regularization of that registration assessee filed application in form number 10 AB on 26/11/2022. The rejection of the application is also on account of failure on the assessee company to reply to the query raised by the CIT. However, the assessee submitted the reply but the submission was short in view of the adjudicating authority. Further, we do not find any force in the observation of the CIT exemptions that merely acquiring, selling, mat gauging and leasing land and buildings can be considered to be a business activity of the assessee. He has read the objects in isolation of the main object. These are the objects, which are stated to be business, are in fact subservient to the main object of education and to finance the activity of the



education such activities are required. That does not make the institution uncharitable. Further, there is an allegation that huge amount of donation on a single day has been received by the assessee, the details of the donation would have been asked from the assessee by giving it a reasonable opportunity of showing wherefrom assessee has received this donation and who were the donors. It is also correct that the corpus of the trust is merely ₹ 5 lakhs and the funds have been received of ₹ 100,289,009/- resulting into investments of ₹ 10 crores. The provision of anonymous donation taxation is already there on the statute. If the donors are identifiable and adequate details are available with the trust, it cannot be said that the objective and activities of the assessee are not genuine. However, it may be the instance of examination any enquiry initiation but without making that it cannot be said that the trust is not entitled to registration. Even otherwise, it is apparent that assessee was not provided adequate opportunity of submitting the requisite details, which was required according to the CIT exemption. In view of this we set-aside the whole issue back to the file of the CIT exemption, Pune with a direction to the assessee to submit all the details which was required originally, to submit the details of the donation with dates, the learned CIT exemption may examine the same and decide the issue in accordance with the law after giving assessee opportunity of hearing.



07. Accordingly, appeal of the assessee is allowed for statistical purposes with above directions.

Order pronounced in the open court on 30.10.2023.

Sd/-

Sd/-

(ABY T VARKEY)
(JUDICIAL MEMBER)

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated:30.10.2023

Dragon

Copy of the Order forwarded to:

BY ORDER,

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai