

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI MANU KUMAR GIRI, HON'BLE JUDICIAL MEMBER
AND SHRI S.R.RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 933/Chny/2024

Saranaalayam Trust,
124/K, Perumalpet,
Alangayam Cross Road,
Vaniyambadi,
Vellore – 635 751.

[PAN:AAHTS-3222-K]

(अपीलार्थी/Appellant)

Commissioner of Income Tax
v. (Exemptions),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थीकी ओरसे/Appellant by

: Shri. T.V. MuthuAbirami, Advocate

प्रत्यर्थीकी ओरसे/Respondent by

: Shri. V. Nandakumar, CIT

सुनवाईकी तारीख/Date of Hearing

: 24.06.2024

घोषणाकी तारीख/Date of Pronouncement

: 03.07.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Exemptions), Chennai dated 27.02.2024.

2. The sole ground of appeal of the assessee is the Ld.CIT(Exemptions) has erred in passing the order U/s.12AB(1)(b)(ii)(B) by rejecting the approval and cancelling the registration of the assessee.

3. Facts of the case :

The assessee is charitable trust, filed an online application on 24/08/2023 in form No.10AB, u/s.12(A)(1)(ac)(iii) of the Act, seeking registration U/s.12AB of the Act. During proceedings before the Ld.CIT(Exemptions), the assessee in response to show cause notice filed the amended trust deed dated 06.10.2022 and requested to grant registration. The Ld.CIT(Exemptions), on perusal of the amended trust deed, noted that, the trust deed has been amended in the objects clause, consequent to amendment the trust has not obtained Re-registration as per the conditions mentioned in the registration certificate, wherein the trust has to "apply for re-registration within a period of thirty days from the date of said adoption / modification to the trust deed" and hence the application filed in Form 10AB, u/s.12(A)(1)(ac)(iii) of the Act, seeking registration U/s.12AB was 'rejected and cancelled the registration'. Aggrieved by the rejection / cancellation order of Ld.CIT(Exemptions), dated 27.02.2024 in form No.10AD, the assessee is before us.

4. The Ld.Counsel for the assessee assails that, the Ld.CIT(Exemptions) has erred in passing the order without

appreciating the fact that the amendments made to the trust deed to enhance the effectiveness in the implementation of the existing objects of the Trust without changing any of the objects per se. The Trust deed of the Trust has been executed on 13/02/2008 and obtained registration U/s.12AA of the Act, w.e.f. 12/03/2008 along with approval U/s.80G(5)(vi) both dated 14/07/2008 from the Director of Income Tax (Exemptions), Chennai. Subsequently the Trust obtained an order for provisional registration in Form 10AC dated 27.05.2021 for the A.Ys.2021-22 to A Y 2023-24.

5. The Ld. Counsel stated that, during the proceedings for registration U/s.12AB of the Act, the Ld.CIT(Exemptions), has erred in considering the amendment of the Trust deed as change of objects, without appreciating the fact that the trust has not made any change of object per se and considering the minor changes made in the amended deed, 'without affecting the substance and spirit of the original deed' as amendment to trust and thereby rejecting / cancelling the registration of the Trust. The Ld. Counsel brought to our notice about the nature of changes made in the trust deed by drawing our attention to the original deed (paper book page no. 6 & 7) and also amended

Trust deed (paper book page no. 26 to 28) and stated that the amendments are not in the nature of change of objects. The Ld. counsel took asserted that the changes made in the amended trust deed is only to establish that the existing objects are more specific to reach the beneficiaries and, thus the impugned action of the Ld.CIT(Exemptions) cannot stand in the eyes of law and prayed for quashing the order of Ld.CIT(Exemptions). In support of the case the Id. counsel relied on the decision of the Hon'ble Supreme court [2019] 103 Taxmann.com 419, in the case of **CIT(E) Vs. Paramount charity Trust**, dismissing the SLP against High court ruling [2018] 97 Taxmann.com 134(Gujarat), wherein the identical issue has been dealt and decided as under :

"2. The respondent, a registered public trust, had applied for and was granted registration under Section 12A of the Income-tax Act, 1961 ["the Act" for short]. Initially, the object of the Trust had eleven clauses which inter alia included education purpose; research; relief to poor; medical aid in form of donations to the hospitals, dispensaries, convalescent homes, asylums, nursing homes and other public institutes for administering medical relief to the poor and to organize relief works in normal times as well as during natural catastrophes. The trust deed authorize the trustees to amend the objects as long as the same were for public charitable purpose. This trust deed was amended so as to include providing all kinds of medical, diagnostic, family welfare and general health facilities and treatment to the patients, in the field of allopathy, Homeopathy or Ayurved, without any distinction of castes, creed, race, religion or language basis, either on free of charge or no profit basis. Yet another object added was to buy, acquire, hire, take on lease, import medical or diagnostic machineries and equipment to run a hospital, dispensary,

maternity home, etc. It was provided that such diagnostic treatment center would be providing service either on free of charge or no profit basis. The Commissioner was of the opinion that insertion of these clauses were not informed to him and they mutilated the charitable objects of the truer, On such basis, he proposed to cancel the registration in exercise of powers under Section 12AA of r», Act. He eventually passed an order cancelling the registration. In the process, he rejected the assessee's contention that the existing clauses already enable the Trust to open diagnostic center and that therefore, there was no deviation from the charitable objects. He concluded that by no stretch of imagination, the existing objects would cover "providing medical diagnostic center ".

3. In appeal, the Tribunal reversed the contention of the Commissioner. By the impugned judgment, Tribunal was of the opinion that non-communication of the amendment in the trust deed was a mere irregularity and would not be a ground for cancellation of registration already granted. The Tribunal did not agree with the Commissioner that running of a diagnostic center was a commercial venture. The Tribunal also held that the existing objects sufficiently cover the purpose also."

6. The Ld. Counsel further stated that, the Ld.CIT(Exemptions) cannot go beyond the twin conditions (A) and (B) specified U/s.12AB(1)(b)(i) of the Act, while passing the impugned order U/s.12AB(1)(b)(ii)(B), rejecting the approval and cancelling the registration of the Trust. Further, the Ld.Counsel stated that, the Ld.CIT(Exemptions) did not bring out any material to state that the activities of the trust are not genuine nor any material to state that the trust did not comply with the requirements of any other law for the time being in force and hence the impugned order of cancellation / rejection

of registration passed by the Ld.CIT(E) is bad in law and prayed that the order deserves to be quashed.

7. The Ld.CIT, DR stated that, it is evident based on the amended trust deed furnished by the assessee before the Ld.CIT (E) during the registration proceedings, the trust has made an amendment to the trust deed and has not obtained the re – registration and hence the order of Ld.CIT (E) is as per the provisions of the Act, and prayed for upholding the same.

8. We have heard both the parties, perused materials available on record and gone through order of the Id.CIT(E) below:

The trust is a charitable institution, existing from 13/02/2008 having registration U/s.12AA of the Act, and also recognition U/s.80G of the Act. Further, the trust obtained provisional registration in Form 10AC on 27.05.2021 from AY 2021-22 to 2023-24 u/s.12(A)(1)(ac)(iv). The Ld.CIT(E), based on the application filed by the Trust and documents furnished by the assessee during the proceedings, noticed the amended trust deed, which had not been intimated to the department within 30 days from the date of amendment, and hence rejected / cancelled the registration of the Trust U/s.12AB of the Act, by

passing an impugned order in Form 10AD dated 27/02/2024. On perusal of both original and amended Trust deed of the Trust, it is observed that the assessee's objects in original trust deed were sufficiently wide and covered range of charitable activities and only minor changes were made in the amended deed, without affecting the substance and spirit of the original deed. Therefore, there is no need for the assessee trust to file an application for re-registration, on account of such amendment made in the objects and hence we do not countenance the action of the Id. CIT (E) in rejecting the registration application of the assessee.

9. Further, the Id. CIT(E), in para No.1.2 of the impugned order stated the legal provision of Section 12AB(1)(b) as below :

"1.2 In brief, section 12AB(1)(b) of the Act empowers the Principal Commissioner or the Commissioner of Income Tax on receipt of an application for registration of a trust/ institution to call for such documents as may be necessary to satisfy himself about the genuineness of activities of the trust or institution and make inquiries in that such application and also cancelling its registration after is satisfied about the objects of the trust or institution and genuineness of its activities."

However, Id. CIT(E) has erred in his decision by cancelling the registration without finding any deviation in the trust activities or whispering any comment on the genuineness of the activities of

the trust, as required in the provisions of section 12AB(1)(b) of the Act.

10. Considering the facts and circumstances of the case and the assessee's reliance on the decision of **CIT(E) Vs. Paramount charity Trust**, (supra) wherein it is clearly held that "Non communication of the amendment in the trust deed was a mere irregularity and would not be a ground for cancellation of registration already granted", we are quashing the impugned order of the Id. CIT(E) and allow the appeal of the assessee by directing the Id. CIT(E) to grant the registration to the trust.

11. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 03rd July, 2024 at Chennai.

d/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिकसदस्य/**Judicial Member**

Sd/-

(एस.आर.रघुनाथा)

(S. R. RAGHUNATHA)

लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 03rd July, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त/CIT- Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF