

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

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER**

**I.T.A. No.309/Asr/2024
Assessment Year: 2021-22**

Sociel Welfare Society, 130 Majitha Road, Gulmohar Avenue, Amritsar. [PAN:ABATS9278F] (Appellant)	Vs.	ITO, Ward 1-(1), Amritsar. (Respondent)
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Appellant by	Sh. Rohit Kapoor, CA & Sh. V.S. Aggarwal, ITP
Respondent by	Sh. B. Srinivas Kumar, CIT. DR

Date of Hearing	08.07.2024
Date of Pronouncement	28.08.2024

ORDER

Per: Udayan Das Gupta, JM

This appeal is filed by the assessee against the order of the Ld CIT (E), Chandigarh, dated 22/03/2024, rejecting the application for registration dated 29/09/2023, filed by the assessee in Form 10AB u/s 12A(1)(ac)(iii) of the Act 61.

2. The grounds of appeal taken by the assessee in the memorandum of appeal are follows:

“1 On the facts and circumstances of the case, the order passed by the learned lower authority i.e. CIT(E) is bad both in the eye of law and against the circumstances of the case.

2 That the CIT(E) has grossly erred in by passing order under 12AB by rejecting the application filed in form 10AB r.w.s 12A(1)(ac)(iii) [vide acknowledgement no 337916500290923] dated 29.09.2023 in respect of conversion of provisional registration into final registration.

3 That the rejection application passed by the CIT(E) needs to be quashed particularly considering the fact that the assessee had had duly complied to the questionnaire and had submitted all the requisite documents as required in the questionnaire vide replies dated 08.02.2024 and 02.03.2024.

4 That the Ld. CIT(E) has erred in rejecting the application on the ground that it failed to ascertain the objects and activities carried out by the appellant society. That the CIT(E) has failed to appreciate that the objects/ MOA/ Rules were already filed with the form 10AB and the activities mentioned in the MOA are in line with the documents submitted vide replies dated 08.02.2024 and 02.03.2024 and it cannot be taken as a ground for rejection of application.

5 That the CIT(E) has erred in rejecting the application on the ground that the assessee has claimed certain expenses in books of accounts which cannot be a valid ground for rejection of application.

6. That the CIT(E) has erred in rejecting the application without providing any adverse material that the assessee

society was engaged in activities which were not genuine or not in line with the MOA.

7. That the CIT(E) has exceeded his jurisdiction by rejecting the application filed in form 10AB retrospectively and also supersede any registration granted u/s 12AB any authority at any earlier time.

8. The appellant craves leave to add, amend or alter any of the grounds of appeals.”

3. The facts of the case are that the assessee is registered under the Societies Registration Act , 1960, dated 28/10/2023 , and as per the objects contained in the Memorandum of the society (placed in paper book page 22 – 34) the primary objects are providing of medical relief , including distribution of medicines , treatment of diseases , operation of medical clinics, distribution of clean drinking water, organizing free food camps and providing free clothing to the underprivileged , and other charitable activities , like operation of old age homes and orphanage , irrespective of any discrimination of age, sex, caste, creed, or religion.

3.1 The assessee obtained provisional registration in Form 10AC, vide order dated 27/05/2021, valid from AY 2021-22 to AY 2023-24, and filed application for registration u/s 12A (1) (ac) (iii) of the Act 61, in Form 10AB, on 29/09/2023, before CIT (E), Chandigarh.

3.2 However, the Ld. CIT (E), on examination and verification of documents submitted by assessee through on line portal, arrived at a conclusion that the documentary evidences produced by the assessee does not conclusively prove the genuineness of the activities of the society, in other words it could not be determined whether the applicant was genuinely carrying on activities as per its objects, stated in the MOA, and as such the registration u/s 12AB has been rejected.

4. Now the assessee is in appeal before the tribunal against the said rejection order dated 22/03/2024, on the grounds contained in the memorandum of appeal.

The assessee has filed a paper book containing 324 pages and has also filed a brief synopsis of 26 pages, highlighting the factual issues and the charitable activities carried out by the assessee society, and has also enclosed photographs claiming to be evidence of distribution of foods to the needy people. The attached paper book certificate also certifies that all documents contained has been submitted before lower authorities, except copies of purchase bills relating to ration items such as sugar, gud, atta, dal, etc. (as contained in PB - 304 to 324).

4.1 It is pertinent to note that the Ld. CIT (E) has observed, that from the documents submitted by the assessee do not show the activities as per objects of the MOA and do not prove the genuineness of the activities of the society, and even though financial statements has been furnished, documentary evidence in support of the same has not been provided.

5. The Ld. AR, in course of arguments, submitted that notices has been issued on various dates by the office of the CIT(E), calling for various information and supporting documents, which has been furnished along with explanations and submissions, copies of which are all filed in the paper book.

5.1 He further submitted referring to the paper book, that copies of income and expenditure account, balance sheet for the year ended 31/03/2020, 31/03/2021, and 31/03/2022, memorandum of association of the society (containing its objectives), has been filed along with the application itself.

5.2 He further submitted referring to PB page that date wise response to all notices issued from the department has been filed along with copies of bank statements, explaining each and every entries contained in such bank statement, copies of audited balance sheet for the year ended 31/03/2023 , copy of the cash book recording daily entries, date wise summary of all expenditures , photographs of charitable events and activities carried out by the society , including photographs of food camps for distribution of foods, and also refers to the written submissions placed in page 297 of the PB , to explain that the society is also registered as an NGO Darpan No. PB/2021/0290706 and CSR No . CSR 00021583. He submitted that the society is mainly carrying out its activities of FOOD distribution , along with clean drinking water , in the slum areas of Amritsar, Punjab, to the homeless, hungry and needy people , who are residing in

the slums and do not have any regular work or are unable to get any work, without making any distinction of caste , creed , religion ,etc.

6. On the specific question raised by the bench , relating to documentary evidences (as pointed out by the Ld. CIT(E) in the rejection order) , the Ld AR referred to the copies of the purchase invoices (enclosed in PB page 304 to 324) to explain that grocery goods such as Atta, Sugar, cooking oil, mustard oil , dalda, vanaspati, detergent, cotton seeds, Maida, Salt, Channa, tea, detergent , etc. are all purchased against proper GST invoices ,in the name of the society , for preparation and distribution of foods and carrying out its charitable programme for food campaign to feed the hungry.

6.1 He however, admits that the purchase bills and invoices , (contained in PB page 304 to 324) were not filed before the Ld. CIT (E) in course of registration proceedings .

6.2 He further submitted that in the instant case, since the activity of the society carried out by providing food to the hungry people , (or feed the hunger) is a part of the objects mentioned in the MOA under the head aims and objectives in paragraph - 3 of the MOA which reads as :

“ to donate food, clothes, organize such donation camps for under privileged , for welfare of the general society without any distinction between caste, creed and religion , in general interest of the public ”

6.3 He submits that considering the contents in the MOA, the observation of the Ld. CIT (E) , that the applicant do not show activities as per the objects of the MOA , is not factually correct , because distribution of food to the hungry , is an activity which is very much a part of the object of the society.

7. In respect of the second issue regarding the proof of genuineness, the Ld. AR, relies on the photographs placed in PB page - 273 to 295 , to argue that these photographs are evidence of the food distribution programme carried out by the society and he refer to the purchase invoice of grocery items and kirana goods , (contained in PB page 304 to 324) to explain that these are the raw materials purchased by the society for cooking of food for distribution .

7.1 Before concluding his arguments he prays that on the facts of the case the Ld. CIT (E) was not justified in disallowing the registration and the same may please be allowed, and relied on some judicial precedents in support of his arguments:

1) 152 taxmann.com 33 (Jammu & Kashmir and Ladakh) HIGH COURT OF JAMMU & KASHMIR AND LADAKH Commissioner of Income- tax v. D.N Memorial Trust*

INCOME TAX:- Where Commissioner declined registration to assessee-trust holding that it failed to justify genuineness of its activities but there was nothing on record to suggest that activities of trust were for non-charitable purpose or for personal purposes of

trustees, etc., Commissioner was directed to grant registration to assessee.

2) [2023] 154 taxmann.com 537 (Madhya Pradesh) HIGH COURT OF MADHYA PRADESH Commissioner of Income-tax v. President Seth Malukchand Hirachand Digambar Jain Goth Bees Panthi Mandir Dharmik Avam Paramarthik Trust, Barnagar (Madhya Pradesh)

Section 12A of the Income-tax Act, 1961 - Charitable trust - Registration Procedure (General) - Whether Commissioner while considering application of assessee trust for registration under section 12A was supposed to enquire into nature of trust - Held, yes - Whether where there was nothing substantive or serious to doubt nature of trust being charitable, Commissioner was not justified in rejecting application for registration on basis that assessee had not shown reason for not filing application for registration within one year from prescribed date - Held, yes [Para 13] [In favour of assessee]

3) [2022] 137 taxmann.com 449 (Karnataka) HIGH COURT OF KARNATAKA Principal Commissioner of Income-tax, Exemptions v. Embassy Charitable Trusty

Section 12AA, read with section 2(15), of the Income-tax Act, 1961 - Charitable or religious trust - Registration procedure (Grant of registration) - Whether section 12AA provides for procedure for registration and, Commissioner at time of grant of registration is required to satisfy himself about objects of trust and genuineness of its activities and has to grant registration only if it is so satisfied - Held, yes - Whether satisfaction of genuineness of activity of a trust is not a

matter which can be looked into at time of grant of registration under section 12AA - Held, yes - Whether therefore, issue with regard to activity of assessee being commercial or business in nature, could not have been gone into at time of consideration of application under section 12AA - Held, yes [Paras 7, 9 and 10] [In favour of assessee]

4) [2020] 121 taxmann.com 31 (Punjab & Haryana) HIGH COURT OF PUNJAB AND HARYANA Commissioner of Income-tax, (Exemptions), Chandigarh v. Shree Durga Mata Mandir

INCOME TAX : Commissioner (Exemption) was not justified in declining registration to assessee-society when there was nothing on record to show that assessee was not working for achieving its aims and objects or that accumulated funds were used for purposes other than aims and objects of assessee.

5) [2020] 120 taxmann.com 256 (Calcutta) HIGH COURT OF CALCUTTA Principal Commissioner of Income Tax (Exemption) v. Shri Nathji Goverdhan Nathji Charitable Trust*

Section 12AA, read with section 12A, of the Income-tax Act, 1961 - Charitable or religious trust - Registration procedure (Scope of enquiry) - Whether Commissioner, in order to register a trust, has to see that constitution of trust, its objects, its trustees and proposed activities are prima facie genuine - Held, yes - Whether thus, verification of genuineness of activity is not condition precedent for granting registration under section 12AA - Held, yes [Paras 15 and 17] [In favour of assessee]”

8. The Ld. DR, relied on the order of the Ld. CIT (E) and argued that fresh evidence as per paper book page number 304 to 324 has been filed, for the first time and it was not available for verification by the lower authority, and as such an

opportunity of verification of the purchase invoices are necessary to arrive at logical conclusion.

9. We have heard the rival submissions and considered the materials on record and are of the opinion that as per the specified objects in the MOA , distribution of food, and feeding the hungry , irrespective of any religion, caste, creed or sex, is also one of the objectives of the society and this activity is proved by way of photographs, and supported by purchase invoices of raw materials, and supporting books of accounts, bank statements , even though this activity has been carried out in very smaller scale , due to unavailability of donations, but nevertheless the carrying out of the charitable activity cannot be denied , and there was nothing to show that the society is not working for achieving its aims and objects.

9.1 Moreover, we do not find anything to suggest that the activities of the society are not for charitable purpose or for personal purpose of any particular member and there is nothing to doubt as to the nature of the society being not charitable .

9.2 We also rely on the judgment of the jurisdictional High court in the case of CIT(E) Chandigarh vs Durga Mata Mandir (Punjab and Haryana HC (2020) 121 taxmann.com31) on the issue that there was nothing on record to show that the assessee was not working for achieving its aims and objects or that accumulated funds were used for purposes other than aims and objects of the assessee.

10. As such we are of the opinion that the society has fulfilled all particulars and conditions required for registration under the Act 61, and as such we remand the matter back to the Ld. CIT(E), Chandigarh, with a direction to consider the application for registration in its proper perspective and to verify the fresh documents filed by way of purchase invoices, and after satisfying, himself / herself, about its genuineness and authenticity, may proceed as per provisions of law.

The appeal of the assessee is allowed for statistical purpose.

11. In the result, the appeal of the assessee bearing **ITA No. 309/Asr/2024** is allowed for statistical purposes.

Order pronounced in the open court on 28.08.2024

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(UDAYAN DAS GUPTA)
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

