

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'B' CHANDIGARH

BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1228/CHD/2018
(Under Section 12AA)

M/s State Council of Vocational Training Society of Haryana, ITI, Plot No. 7, Sector-14, Panchkula.	बनाम VS	The CIT(exemptions), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AATAS1047B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Neeraj Arora, CA
राजस्व की ओर से/Revenue by : Smt. Kusum Bansal, CIT, DR

तारीख/Date of Hearing : 04.09.2024
उद्घोषणा की तारीख/Date of Pronouncement : 06.09.2024

PHYSICAL HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal against the order dated 31.07.2018 passed by the ld. CIT (Exemptions), Chandigarh rejecting the assessee's application for registration under Section 12AA(1)(b)(ii) of the Income Tax Act, 1961.

2. The following grounds have been taken :

1. That the order passed u/s 12AA of the Income Tax Act, 1961 by the Commissioner of Income Tax (Exemptions), Chandigarh is against law and

facts on the file as much as he was not justified to arbitrarily reject the application seeking registration u/s'12AA without giving any cogent reason for the rejection thereof.

2. *That he was not justified to hold that the activities of the society did not partake the character of "Education".]He was further not justified to hold that the activities of the Society did not partake the character of "charitable purpose": as "advancement of other objects of general public utility.*

3. At the outset, the Id. Counsel for the assessee has stated at the Bar that he wishes not to press and withdraw the first portion of Ground No.2, i.e., with regard to the contention that the Id. CIT(E) was not justified in holding that the activities of the assessee Society did not partake the character of "Education". Thus, the first part of Ground No.2 is rejected as not pressed.

4. The dispute as surviving before us now is as to whether the Id. CIT(E) correctly held the activities of the assessee not to partake the character of "charitable purpose" as "advancement of other objects of general public utility".

5. The Id. CIT(E) while rejecting the application filed by the assessee, has held as follows :

"7.....After perusal of written submissions, it is revealed that the society claims to be carrying on activities of improving, developing and strengthening vocational training to carry out the policy of National Council for Vocational Training (NCVT) in respect of syllabi, equipment, accommodation, duration of course, method of training, conduct of examination, to co-opt any person/ agency in advisory role, to ensure qualification of training staff, issuance of National Trade Certificate and recommend the provision of additional trade as per industry need. A specific query was raised to applicant that what limb of section 2(15) is being pursued by society.

In response to such query the applicant, has contended in its reply dated 16.07.2018 that society is pursuing activities of education and advancement of objects of general public utility. It makes a centralized online admission to bring transparency in the system and give equal opportunity to every student regarding their institutes. It collects the fees from the students and same is utilized for making payments of scratch card and to the firm hired for online admissions. It is basically for improvement of skill development training. The society acts in assistance of the statutory function of the Government to improve the curriculum, course content etc in the field of skill development. Redeeming of statutory functions of the government or even assisting therein can't partake the character of charity. In that light, the main objects/ activities projected by the applicant do not qualify for the tag "education" envisaged in section 2(15) of the Act either. The sense in which the word "education" has been used in Section 2(15) as interpreted by the Apex Court in the case of Sole trustee, Loka Sikshan Sansthan (101 ITR 234) is systematic instruction, schooling or training given to the young is preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. The word "education" has not been used in that wide and extended sense, according to which every acquisition of further knowledge constitutes education. To that extent, the contention of the applicant of pursuing 'education' limb of section 2(15) is not acceptable. Moreover carrying out the training policy laid down by the NCVT and co-ordinating the vocational training programmes do not partake the character of "Charitable Purposes" as "advancement of other objects for general public utility" as well. The issue gets further exacerbated by the fact that returns of income have also been filed in Form No. ITR-5 that is required to be filed by firms, AOP and BOI. It is pertinent to mention that as per rule 12(1) of the IT Rules, 1962, the returns of income of the society/trust/company which works on the principal of 'no profit no loss', are required to be filed in Form No. ITR-7. Filing of return of income in form no. ITR-5 clearly indicates that the applicant society is involved in non charitable activities that do not get covered u/s 2(15).

8. Perusal of financial documents further reveals that the applicant society has received grant of Rs. 5 Crore on behalf of "Modern ITI Gurgaon" in F.Y 2016-17. Moreover as per bank statements, Rs. 70.05 lakhs has been transferred from society's account to "Haryana Knowledge Corporation Ltd" in F.Y 2015-16 and Rs. 17.86 lakhs has been transferred to "We Excel Software Pvt Ltd" in F.Y 2016-17. In that context, the applicant was specifically asked for providing the exemption status of aforesaid entities. In response to such query, the applicant has merely stated that 'we are not aware about the status of exemption of Model ITI Gurgaon, Haryana Knowledge Corporation and We Excel Software Pvt. Ltd'. Moreover the applicant also failed to provide any cogent answer to query such as 'how does Grant of Rs. 5 Crore received on behalf of Modern ITI

Gurgaon partake the character of income exempt u/s 11 & 12 of the Act'. The applicant has merely stated in its reply that the said grant was not received by the society for its own purposes, so there was no question of utilization of the same, in view of this, it is conclusively established that the applicant has been evasive rather than providing complete and proper response to the queries of the department. In this light clearly genuineness of activities can't be examined. Moreover, receiving grants from the government on behalf of other entities and subsequent transfer to them clearly shows that the applicant society is merely a disseminating agency of government funds to vocational training provider entities and not performing any charitable activity at its own end. The cryptic response when asked about funds totalling to Rs. 5 Crores, in the case of Modern ITI shown as liability in the balance sheet, further exacerbates matters. It is safe to conclude that this aspect of activities of society related to other agencies doesn't tantamount to undertaking activities of its own and therefore not charitable.

9. *In the instant case, given the above, it is evident that claimed activities of the society does not partake the character of 'education' as established by the Apex Court in the case of Lok Shikshan Sansthan. Also redemption of statutory functions of the government or assistance therein can't be claimed as charitable!) It is evident that the queries raised by the department have not been, answered directly. To that extent the genuineness of activities can not be examined. It is pertinent to mention that for clauses beneficial to the assessee the onus lies entirely on the applicant to buttress its claims. Moreover, filing of returns of income in form no. ITR-5 also impinges upon the society's own perception of it being charitable or not. In light of the above, I have no option but to deny the registration to the applicant u/s 12 AA of Income Tax Act, 1961."*

6. Thus, the ld. CIT (E) has held that the assessee Society is basically for improvement of skill development training; that it acts in assistance of the statutory function of the Government to improve the curriculum, course content, etc., in the field of skill development; that carrying out the training policy laid down by the National Council for Vocational Training, i.e., NCVT, and coordinating the

vocational training programs, are not activities partaking the character of 'charitable purposes' as 'advancement of other objects of general public utility'; that moreover, receiving grants from the Government on behalf of other entities and subsequent transfer thereof shows that the assessee is merely a disseminating agency of Government funds to vocational training provider entities and is not performing any charitable activity at its own end; and that also, redemption (sic) of statutory functions of the Government or assistance therein cannot be claimed as charitable.

7. The ld. Counsel for the assessee has sought to place reliance on; (i) 'IMC of ITI Women, Jhajjar at Gudha Vs CIT, Rohtak', order dated 31.10.2012 passed by the Delhi Bench of the Tribunal in ITA No.4471/Del/2012 and (ii) 'Escorts Skill Development, Faridabad Vs CIT (Exemptions), Chandigarh', order dated 26.04.2019 passed by the Delhi Bench of the Tribunal, in ITA Nos.527 and 528/Del/2017.

7.1 The ld. DR, on the other hand, has placed strong reliance on the impugned order, contending that undisputably, as correctly held by the ld. CIT (E), carrying out the training policy laid down by the NCVT and co-ordinating the vocational training programs does not fall within the

meaning of charitable purposes, i.e., advancement of other objects of general public utility; that therefore, carrying no merit whatsoever, the appeal filed by the assessee be ordered to be dismissed while confirming the well reasoned order passed by the Id. CIT (E).

8. Having heard the rival contentions in the light of the material placed on record, we find that the activities of the assessee society are similar to those in “IMC of ITI Women, Jhajjar” (supra). Therein, as in the case of the present assessee, the main activity of the Society was to assist in improvement of the standard of vocational training and skill development in the country as a whole. The Tribunal held the objects of the Society to be charitable.

9. Again, in “Escorts Skill Development, Faridabad” (supra), the activities, inter-alia, pertained to vocational training and skill development initiation under the Skill Development Program of Government of India. The Tribunal held such activities to be charitable.

10. No decision to the contrary has been placed before us.

11. In view of the above, the grievance of the assessee is found to be justified and it is accepted as such. The

assessee is found to be entitled for registration under Section 12AA. Accordingly, the order of the ld. CIT (E) is reversed. The CIT (E) is directed to grant registration to the assessee under Section 12AA of the Act forthwith.

12. In the result, the appeal is allowed.

Order pronounced on 06.09.2024.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANTMEMBER

Sd/-

(A.D.JAIN)
VICE PRESIDENT

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar