

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री आकाश दीप जैन, उपाध्यक्ष एवं श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. AAKASH DEEP JAIN, VP & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO.650/Chd/2024

I.K. Gujral Punjab Technical University, Jalandhar-Kapurthala Highway, Kapurthala, Punjab-144603	बनाम	The CIT(Exemptions) Chandigarh
स्थायी लेखा सं. / PAN NO: AAAJP1130J		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri Ajay Vohra, Sr. Advocate with
Ms. Somya Jain, CA

राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT, DR

सुनवाई की तारीख/ Date of Hearing : 07/10/2024

उदघोषणा की तारीख/ Date of Pronouncement : 28/10/2024

आदेश/Order

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal challenging the order dt. 30/03/2024 passed by the Id. CIT(E) withdrawing registration granted under section 12AB of the Income Tax Act, 1961. The following grounds have been raised:

1. That on the facts and circumstances of the case and in law, impugned order dated 30.03.2024 in Form 10AD passed by the Commissioner of Income Tax Exemptions, Chandigarh ('CIT(E)') rejecting/dismissing application for registration under section 12AB of the Income Tax Act, 1961 ['the Act'] is illegal and bad-in-law.

1.1 That the CIT(E) erred on facts and in law in passing the impugned order without judiciously considering the submission filed by the appellant, which is in gross violation of principles of natural justice, thus, illegal, bad in law and liable to be quashed.

2. That on the facts and circumstances of the case and in law, the CIT(E) erred in denying application for registration filed under section 12A(1)(ac)(iii) holding that the appellant university does not falls in the category of assesses eligible to claim exemption under section 12AB of the Act.

2.1 That the CIT(E) erred on facts and in law in holding that only(i) a society registered under Society Registration Act, 1860; or (ii) a public charitable trust registered under the relevant Trust Act; or (iii) a section 8 company registered under Companies Act, are eligible to claim exemption under section 12AB of the Act and the consequently University established under a statute is not eligible for registration.

2.2 *That the CIT(E) further erred on facts and in law in not appreciating that the appellant was a University established as a body corporate under the The Punjab Technical University Act, 1996, and was accordingly covered within the definition of 'person' as provided under section 2(31) eligible to claim registration under section 12AB of the Act.*

2.3 *That the CIT(E) erred on facts and in law in rejecting that application for registration without appreciating the fact that the- (i) appellant University is imparting 'education' covered in definition of 'charitable purpose' under section 2(15) of the Act; (ii) the activities of the appellant are genuine, and (iii) appellant is compliant with all the applicable laws.*

3. *That the CIT(E) erred on facts and in law in denying registration and cancelling the earlier (provisional) registration / approval, retrospectively with effect from assessment year 2022-23, which action is beyond jurisdiction, bad and impermissible in law.*

2. The assessee University was established as a State University on 16/01/1997 under the Punjab Technical University Act, 1996, in the name of 'Punjab Technical University'. Subsequently, the name of the assessee was changed to "The I.K. Gujral Punjab Technical Univeristy".

3. Since its inception, the assessee University was claiming and being granted exemption of its entire income under section 10(23C)(iiiab) of the Act, as available to an educational institution financed wholly or substantially by the Government. With effect from 01/04/2015, Explanation to Section 10(23C)(iiiab) of the Act was inserted in the Act. Simultaneously, Rule 2BBB was inserted in the Income Tax Rules. It was prescribed that the educational institution would be considered as substantially financed by the Government only if the Government grants exceeded 50% of the total receipt of such institution during the relevant financial year. Due to such insertion in the Act and the Rules, w.e.f 01/04/2015, i.e., w.e.f A.Y. 2015-16, the eligibility of the assessee for exemption under section 10(23C)(iiiab) of the Act came to an end, since the receipt of the assessee from fees collected exceeded 50% of its total receipt and as such, the Government grants to the assessee ceased to exceed 50% of the total receipt of the assessee.

4. The eligibility of the assessee to claim exemption under section 10(23C)(iiiab) of the Act having come to an end, on 30/03/2016, the assessee University file application under section 10(23C)(vi), since it was engaged solely in imparting education.

5. On losing its status of being substantially financed by the Government, in view of the aforesaid amendment in the Act and the Rules, the assessee University filed an application dt. 30/03/2016 under section 10(23C)(vi) of the Act, for claiming exemption, being engaged solely in imparting education. The said application was rejected vide order dt. 31/03/2017 and the said order of rejection was confirmed by the Tribunal, in ITA No. 910/Chd/2017. The assessee's appeal against the said Tribunal order, is pending before the Hon'ble High Court in ITA No. 386/2018, having been admitted.

6. The assessee also filed an application for Registration under section 12A of the Act, on 23/03/2017. The ld. CIT(E) rejected this application vide order dt. 29/09/2017. Aggrieved, the assessee filed ITA No. 1646/Chd/2017 before the Tribunal. The Tribunal, vide order dt. 05/02/2019, set aside the CIT(E)'s order dt. 29/09/2017. The matter was remanded to the ld. CIT(E) for fresh consideration, particularly in the light of the additional evidence filed by the assessee before the Tribunal for establishing the charitable nature of the assessee's activity of education. The matter is presently pending before the ld. CIT(E).

7. Against the order dt. 05/02/2019 passed by the Tribunal, the Department, without giving effect to said order, filed appeal before the Hon'ble High Court, in ITA No. 343/2019. Simultaneously, the assessee also filed W.P.(C)No. 12714/2022 in the Hon'ble High Court, challenging the action of the ld. CIT(E) in not passing order

giving effect to the direction of the Tribunal, as contained in the aforesaid order dt. 05/02/2019. The writ petition stands admitted.

8. Apropos the order presently under challenge, as per Ground No. 1, the ld. CIT(E) has grossly violated the principles of natural justice in as much as no adequate opportunity of hearing was afforded to the assessee before passing the impugned order, rejecting the assessee's application for Registration. It has been contended that the application for Registration was filed on 30/09/2024; that however, the questionnaire (APB 488-490) was issued for the first time by the ld. CIT(E), only on 14/11/2023. In response, the assessee filed replies (APB 491-496) dt. 23/12/2020, 04/01/2024, 08/01/2024 and 11/01/2024. Thereafter, it was only on 27/03/2024, when only three days remained for completion of limitation to pass the order, that the ld. CIT(A) issued a show cause notice (APB 497-498) requiring the assessee to furnish reply by 28/03/2024, i.e., on the very next day as that of the issuing of the show cause notice. Thereby, the assessee was provided effective time of only one day to submit its reply to the show cause notice. Thus, as per the assessee the order of the Ld. CIT(E) is in gross violation of principles of natural justice in as much as the period of one day cannot be taken to be reasonable time to enable the assessee to file response to the show cause notice. Reliance has been placed on the following case laws:

- Sona Builders v. Union of India; 251 ITR 197(SC)
- Vodafone India Ltd. vs. UOI; 221 Taxman 88 (Bom.)(Mag)
- Smt. Ritu Devi vs CIT; 271 ITR 466 (Mad.)
- Rameshwaram Paper Mills(P) Ltd. v. State of U.P. & others, (2009) 11VLJ33(All);
- Padam Traders & others v. State of U.P. & others, (2009) 47 STJ 392 (All)

9. So far as regards the Ground Nos. 2 & 3, according to these grounds, the ld. CIT(E) has erred in holding that the assessee University does not fall in the category

of assessee eligible to claim exemption under section 12AB of the Act; that the Ld. CIT(E) has erred in holding that firstly, only a society registered under the Societies Registration Act, 1860, or a public charitable trust registered under the relevant Trust Act or a Section 8 Company registered under the Companies Act, are eligible to claim exemption under section 12AB, under any of which categories the assessee did not fall; that the Ld. CIT(E) has erred in not appreciating that the assessee is a University established as a body corporate under the Punjab Technical University Act, 1996 and that it is, as such, covered within the definition of 'person' as provided under section 2(31), making it eligible to claim registration under section 12AB; that the Ld. CIT(E) has failed to appreciate that the assessee University is imparting education, which is covered under 'charitable purpose' as contained in Section 2(15), that the assessee's activities are genuine and it has duly complied with all the laws applicable; and that the Ld. CIT(E) has gone wrong in cancelling the provisional registration granted to the assessee's retrospectively, w.e.f. A.Y 2022-23.

10. It is seen that it is undisputed, being patent on record, that the show cause notice is dt. 27/03/2024 . It requires the assessee to show cause as to why the application of the assessee be not rejected, since there is no change in the facts and circumstances of the case present when the Section 12AA Exemption was earlier denied to the assessee. The assessee has been requested to furnish this explanation on or before 28/03/2024, i.e., the immediately next day as the day of the issuing of notice, and that too, by 11.00 A.M, on 28/03/2024. Thus, the assessee is wrong in contending that it was effectively provided time of barely one day to submit its response to the show cause notice. The fact of the matter is that the time provided to the assessee for replying to the notice was that of less than one day. As correctly contended, in the

case laws relied on by the assessee, granting of reasonable opportunity has been considered as the sine qua non for adhering to the principles of natural justice. But even without referring to those decisions, it cannot but be held that by no stretch of imagination can the principles of natural justice be adhered to by granting one day, nay, less than one day to the assessee to file reply to the show cause notice. And, as is available from the notice itself, the issues which the assessee was required to reply to were complicated, vexed issues of law, to which, the assessee could not have filed reply by the next day.

11. So, on this issue alone, the order under appeal cannot be sustained in the eyes of law.

12. Concerning Ground Nos. 2 & 3, the denial of registration, the assessee has been ordered, holding that since the assessee is a University, it does not fall under any of the three categories of assesseees who are eligible to claim exemption under section 12AB of the Act. These three categories have been stated to be;

1. A society registered under the Societies Registration Act, 1860
2. Public Charitable Trusts registered under the relevant Trusts Act
3. Section 8 Company registered under the companies Act, 2013

13. We find that while doing so, Id. CIT(E) has remained oblivious of the position, as correctly contended on behalf of the assessee, that Section 12A / 12AB do not provide that only a society or a trust or an entity registered under the Companies Act is entitled to exemption. Section 12(1) talks of, amongst other things, an institution established wholly for charitable purposes. Section 12A mention, inter alia, income of any institution, the person in receipt of which makes an application for registration of the trust or institution, and then, Section 12AB talks of the requirement of the registering authority to satisfy themselves about, inter alia, the genuineness of the

institution and its objects and activities. Section 13 states that Section 11 would not apply to exclude certain incomes, as mentioned therein, from the total income of the person who is in receipt of such income. It mentions charitable institutions created after the commencement of the Act.

13.1 For ease of ready reference, the provisions of Sections 11, 12, 12A, 12AB and 13 (with highlighted relevant part thereof) are reproduced hereunder:

"11. Income from property held for charitable or religious purposes.

*(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year **of the person** in receipt of the income (a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property*

*(7) Where **a trust or an institution** has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (1), clause (23C) and clause (46)] thereof shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:*

12. Income of trusts or institutions from contributions.

*(1) Any voluntary contributions received by a trust created wholly for charitable or religious purposes or **by an institution established wholly for such purposes** (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.*

12A. Conditions for applicability of sections 11 and 12.

*(1) The provisions of section 11 and section 12 shall not apply in relation to the **income of any trust or institution** unless the following conditions are fulfilled, namely:—*

*(aa) **the person** in receipt of the income has made an application for **registration of the trust or institution** on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;*

*(ac) notwithstanding anything contained in clauses (a) to (ab), **the person** in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, **for registration of the trust or institution,**—*

(i) where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020)], within three months from the first day of April, 2021;

(ii) where the trust or institution is registered under section 12AB and the period of the said registration is due to expire, at least six months prior to expiry of the said period;

(iii) where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier;

(iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;

(v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;

(vi) in any other case, where activities of the trust or institution have—

(A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought;

(B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of subclause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,] and such trust or institution is registered under section 12AB;

(b) where the total income of the **trust or institution** as computed under this Act without giving effect to the provisions of sections 11 and 12. exceeds the maximum amount which is not chargeable to income-tax in any previous year,—

(i) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed--; and

(ii) the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form— duly signed and verified by such accountant and setting forth such particulars, as may be prescribed]

(ba) **the person in receipt of the income** has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under ---[subsection (1) or sub-section (4) of] that section;

12AB. Procedure for fresh registration

(1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,—

(a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(b) where the application is made under **sub-clause (ii) or sub-clause (Hi) or sub-clause (iv) or sub-clause (v)** —[or item (B) of sub-clause (vi)] of the said clause,—

(i) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of the **trust or institution**; and

(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(ii) after satisfying himself about the objects of the **trust or institution** and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),—

(A) pass an order in writing **registering the trust or institution** for a period of five years; or

[(B) if he is not so satisfied, pass an order in writing,

(I) in a case referred to in sub-clause (ii) or sub-clause (Hi) or sub-clause (v) of clause (ac) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;

(II) in a case referred to in sub-clause (iv) or in item (B) of sub-clause (vi) of sub-section (1) of section 12 A, rejecting such application,

after affording a reasonable opportunity of being heard;] —[(c) where the application is made under item (A) of sub-clause (vi) of the said clause or the application is made under sub-clause (vi) of the said clause, as it stood immediately before its amendment vide the Finance Act, 2023, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought,] and send a copy of such order to the trust or institution.

(2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be applications made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.

(4) Where registration or provisional registration of a trust or an institution has been granted under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (b) of sub-section (1) of section 12AA, as the case may be, and subsequently,—

(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or

(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or

(c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall,—

(i) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

(iii) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

(iv) forward a copy of the order under clause (ii) or clause (Hi), as the case may be, to the Assessing Officer and such trust or institution.

Explanation.—For the purposes of this sub-section, the following shall mean "specified violation",—

(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

(b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

(c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or

(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(e) any activity being carried out by the trust or institution,—

(i) is not genuine; or

(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality; or

(g) the application referred to in clause (ac) of sub-section (1) of section 12A is not complete or it contains false or incorrect information.]

13. Section 11 not to apply in certain cases.

(1) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;

(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste.

13.2 As per the provisions of Section 2(31) of the Act, 'person' includes an artificial juridical person which does not fall within any of the other sub clauses of Section 2(31). Here, it is relevant to mention that the assessee University has, all through, claimed itself to be such artificial juridical person, which claim has not been denied.

13.3 The Explanation under section 2(31) specifically provides that for the purpose of Section 2(31), inter alia, an artificial juridical person shall be deemed to be a person.

14. Therefore, the emerging sequence can be led into by stating that the registration provisions of the Act talk of 'person'. 'Person' is defined by Section 2(31) as a person

as, inter alia, 'every artificial juridical person'. The assessee University is undeniably an 'artificial juridical person'. An artificial juridical person as per the Explanation provided to Section 2(31), is mandated to be a person.

The above sequence being taken into consideration, it cannot but be held that the Id. CIT(E) has utterly gone wrong in holding that the assessee University is not entitled to registration under section 12AA of the Act, since it does not fall within any of the three categories referred to by the Id. CIT(E), i.e.:

1. A Society registered under the Societies Registration Act, 1860,
2. A Public Charitable Trust registered under the relevant Trust Act
3. A Section 8 company registered under the Companies Act, 2013

As specifically laid down therein, the Punjab Technical University Act, 1996, in Section 3(1) thereof, specially lays down that the assessee University is a body corporate. For ready reference, Sections 3(1) and (2) are being reproduced hereunder:

PUNJAB TECHNICAL UNIVERSITY ACT, 1996

*3. (1) The first chancellor and the first Vice-Chancellor of the University and the first member of the Board of Governors and the Academic Council and all persons who may hereafter become such Officers or Members so long as they continue to hold such office or membership are hereby constituted **a body corporate by the name of "The Punjab Technical University Jalandhar"**.*

(2) The University shall have perpetual succession and a common seal with power to acquire hold and dispose of property, and to contract, and may by the said name sue and be sued.

(emphasis supplied)

Therefore, the assessee University is a separate legal entity. It exists independently. It has perpetual succession. It has a common seal. It has independent power to sue and

be sued. It has independent power to hold property in its name. Further, a separate PAN has been allotted to it by the Income Tax Department itself.

15. On the basis of the above, evidently, such a body as the assessee University is definitely eligible to be registered under section 12A of the Act. In this regard, reliance has rightly been placed by the assessee on ‘O P Jindal Global University Vs. CIT’: 127 ITD 164 (Delhi). Therein, under similar facts, it was held that a University registered under a state legislation is competent to be registered under section 12A of the Act. It was held, under similar circumstances, that a University incorporated under the Haryana Private Universities Act, 2006 is an artificial juridical person coming within the definition of the term ‘person’ under section 2(31)(vii); that therefore, it is entitled to make an application for registration under section 12AA of the Act; that under the Explanation to Section 2(31)(vii), an artificial juridical person shall be treated to be a person, whether or not it has been formed or established with the object of deriving income, profit or gains; that thus, the juristic person created under that Act may or may not be incorporated as a company or a society so as to be a ‘person’ under the Act; and that accordingly, the CIT(E) erred in coming to the conclusion that the assessee University was not a person competent to make an application for its registration.

16. The said order of the Tribunal in ‘O.P. Jindal Global University’(supra), on the appeal of the Department, was upheld by the jurisdictional Punjab & Haryana High Court in ‘CIT Vs. O.P. Jindal Global University’, 219 Taxman 70(P&H)(Mag.). Their Lordships held that the University was a body corporate and was established for the purposes of providing education and that thus, it was an institution eligible for registration within the meaning of Section 12AA of the Act.

17. Parity of the facts in the present case with those in ‘O.P. Jindal Global University’(supra) has been well brought out before us. The Department, on the other hand, has not been able to place any decision contrary to ‘O.P. Jindal Global University’(supra). The assessee University is a University established under the Punjab Technical University Act, 1996. There is no denying that it has been established for the sole purpose of providing education.

18. For the proposition that Section 12A of the Act does not provide for any distinction between trusts and institutions created by the Government or private individuals and an institution having an objective of charitable nature and falling within the meaning of ‘person’ under section 2(31) of the Act is eligible for registration under section 12A of the Act, the Id. Counsel for the Assessee has sought to place reliance on the following decisions:

- Bar Council of Uttar Pradesh vs. CIT: [1983] 12 Taxman 209(All)
- CIT vs. Agricultural Market Committee: (2012) 336 ITR 541(AP)
- Gujarat Maritime Board vs. CIT: (2005)147 Taxman 31 (Ahd ITAT)
- Indus University vs. ACIT: (2018) 169 ITD 609 (Ahd ITAT)

- Mormugao Port Trust Vs CIT; (2007) 109 ITD 303 (Panaji ITAT)

18.1 In ‘Bar Council of Uttar Pradesh (U.P)’(supra), following ‘CIT Vs. Bar Council of Maharashtra’ (1981) 130 ITR 28(SC), it was held that since the object and activity of the assessee therein came within the perview of ‘charitable purpose’ under section 2(15) of the Income Tax Act, and since it was undisputed that the assessee was not carrying on its activity with the motive of earning profits, the assessee was an institution for charitable purpose within the meaning of Section 2(15); and that accordingly, it was entitled to claim relief both under sections 10(23A) and 11 of the Act.

18.2 In 'Agricultural Market Committee' (supra) it was held that an Agricultural Marketing Committee constituted by the Government of state is an 'institution' established for the advancement of the object of general public utility and, therefore, it exists for charitable purposes; and that it is also a person and it will, therefore, be entitled to registration under section 12A of the Act.

18.3 In 'Gujarat Maritime Board' (supra), it was held that Section 12A of the Act does not make any distinction between trusts and institutions created by private individuals or by the Government; that if an assessee is an institution whose object is charitable as defined under section 2(15) of the Act, it would be entitled to registration under section 12A, even though, as per the definition of 'person' under section 2(31), it falls in any other category like company, or AOP, or local authority; and that since the assessee Gujarat Maritime Board was genuinely engaged in the activity of developing and maintenance of ports in the state of Gujarat, which was certainly an object of general public utility, the assessee was entitled to registration.

18.4 In 'Indus University'(supra) it was held that the assessee private University, engaged in imparting education, was eligible for registration within the meaning of Section 12AA of the Act as it was established in furtherance of objects contemplated under the Gujarat Private University Act, 2009, according to which, the objects of the University established would be to create, organize, preserve and disseminate knowledge in the fields of science, technology, humanities, social science, education, management, commerce, law, etc.

18.5 In 'Mormugao Port Trust'(supra), again, as in 'Gujarat Maritime Board' (supra), it was held that Section 12A of the Income Tax Act does not make any

distinction between trusts or institutions created by a private individual or by the Government; that if an assessee is an institution whose object is charitable as defined under section 2(15), it would be entitled to registration under section 12A of the Act.

19. Further, it remains irrefuted that the Department has been granting registration under section 12A/12AA of the Act to Universities established under the said Act, on finding the objects of those Universities to be charitable in nature. The following have rightly been cited as cases in which Universities similar to the assessee University have been granted registration:

1. IILM University Vs. CIT(E), order dt. 22/03/2021, passed by the Delhi Bench of the Tribunal, in ITA No. 1263/Del/2019 (ACLPB 91-98)
2. Visvesvaraya Technological University Vs. CIT(E), Bengaluru [2018] 171 ITR 414 (Bangalore Trib)
3. Singhanian University Vs. CIT(E), Jaipur [2020] 184 ITR 487 (Jaipur Trib)
4. Sikkim Manipal University Vs. ACIT (2012) 148 TTJ 645 (Kolkata)

20. Besides the above, we also find ourselves in agreement with the grievance of the assessee that registration under section 12AB cannot be denied in the absence of any specific violation, in the preceding year (no such violation has been alleged by the CIT(E) against the assessee University in the present case), and that it cannot be denied / cancelled retrospectively, as has been done herein. Reference in this regard has correctly been made to the decisions of the Bangalore Bench of the Tribunal in 'Ambala Jyothi Vidya Kendra Vs. PCIT' passed in ITA No. 458/Bang/2023 and 'Islamic Academy of Education Vs. PCIT', in ITA No. 610/Bang/2023.

21. In view of the above discussion, we hold that the ld. CIT(E) has erred in dismissing the application for registration under section 12AB of the Act, filed by the assessee University, holding that:

1. The assessee University does not fall in the category of assessee eligible to claim registration under section 12AB of the Act.
 2. Only a society registered under the Societies Registration Act, 1860, or a Public Charitable Trust registered under the relevant Trusts Act, or a Section 8 company / Section 25 company registered under the Companies Act, are eligible for registration under section 12AB of the Act and that a University established under the statute is not eligible for such registration.
22. We further hold that
1. The Id. CIT(E) has erred in failing to appreciate that the assessee is a University established as a body corporate under the Punjab Technical University, Act, 1996 and is, accordingly, covered within the definition of 'person' as provided in Section 2(31) of the Act and that it is eligible to claim registration under section 12AB of the Act.
 2. The assessee University is carrying out a charitable purpose within the meaning of Section 2(15) of the Act, since it is only imparting education.
 3. The activities of the assessee University are genuine.
 4. The assessee is duly complying with all the laws applicable.
23. We further hold that the Id. CIT(E) has erred in cancelling the earlier provisional registration granted to the assessee, with retrospective effect, i.e., w.e.f. A.Y. 2022-23.
24. To conclude, it is held that the assessee is entitled to registration under section 12A/12AB of the Income Tax Act.

25. Accordingly, the order under appeal is set aside and cancelled. It is directed that the assessee University be granted registration under section 12A/12AB of the Act forthwith. Ordered accordingly.

26. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 28/10/2024

Sd/-
विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
आकाश दीप जैन
(AAKASH DEEP JAIN)
उपाध्यक्ष / VICE PRESIDENT

AG

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

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar