

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.1901/Bang/2024
Assessment Year: 2019-20

Sayeediya Yatheem Khana Trust, No.22/1, 3 rd Cross, Sayeed Nagar, NP Factory Main Road, Kaval Byrasandra, Bangalore – 560 032. PAN – AAQTS 8748 B	Vs.	The Income Tax Officer, Ward – 6(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri BS Balchandran, AR
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Revenue (DR)

Date of hearing	:	28.10.2024
Date of Pronouncement	:	28.11.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi all dated 29/07/2024 in DIN No. ITBA/NFAC/S/250/2024-25/1067095755(1) for the assessment year 2019-20.

2. The appellant, a charitable trust, engaged in the activities such as running orphanages, providing schooling, free food, shelter, and clothing, was established by a trust deed registered with the Sub-Registrar dated **15th March 2016**, Gandhinagar, Bangalore. The trust was subsequently granted registration under **Section 12AA** of the

Income Tax Act, 1961 ("the Act"), vide order dated **24th March 2023**. For the year under consideration i.e. **AY 2019-20**, the appellant did not file its return of income as required under **Section 139(4A)** of the Act. During scrutiny of the Form 26AS, the Assessing Officer ("AO") identified that the trust had received rental income amounting to **₹ 30,75,000/-** from **Shifa Health Foundation Trust**.

2.1 Based on this information, the AO initiated reassessment proceedings under **Section 147** of the Act, by issuing a notice under **Section 148** of the Act, on **14th March 2023**, after obtaining requisite approval from the specified authority. The assessment was completed under **Section 147 read with Section 144** of the Act, vide order dated **2nd November 2023**, wherein the rental income was taxed under the head "Income from House Property" in accordance with the provision of **Section 23 read with Section 24 of the Act**. After allowing a standard deduction of 30%, the AO determined taxable income of **₹ 21,52,500/- only**.

3. The aggrieved assessee preferred an appeal before the **Commissioner of Income Tax (Appeals)** ["CIT(A)"], who upheld the assessment order of the AO.

4. Being aggrieved by the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)], the assessee has preferred the present appeal before this Tribunal. The assessee has raised multiple grounds of appeal, including legal ground challenging the validity of the reassessment proceedings initiated under **Section 147** of

the Income Tax Act, 1961 ("the Act") and **Substantive Grounds** contesting the addition made by the Assessing Officer (AO) on merits.

5. The learned Authorized Representative (AR) for the assessee, during the course of the hearing, among the other contentions submitted that the appellant trust was granted registration under **Section 12AA** of the Income Tax Act, 1961 (the "Act") on **24th March 2023**. At the time of the grant of registration, the assessment proceedings for the relevant assessment year (A.Y. 2019-20) were already pending before the Assessing Officer (AO). In this regard, the Id. AR contended that in accordance with the proviso to **subsection (2) of Section 12AA** of the Act, the appellant trust is entitled to the benefit of exemption under **Section 11** of the Act for the year under consideration. The Id. AR argued that since the registration was granted before the completion of the assessment proceedings, the appellant is entitled to the exemptions available to a registered charitable trust under **Section 11 of the Act**, which allows exemption on income applied for charitable purposes, provided such income is not applied for non-charitable purposes.

5.1 The learned AR, without prejudice to the submissions made above, further submitted that the total receipts of the assessee for the year amounted to **₹ 63,53,612**, against which the total expenditure incurred was **₹ 63,51,962 only**. Therefore, the surplus over the expenses was a nominal **₹1,650 only**. Thus, the Id. AR contended that if the exemption under **Section 11** or **Section 12** of the Income Tax Act, 1961 (the "Act") is not granted, and the impugned rental receipt is treated separately as income from house property, then the assessee

would incur a loss of ₹ **30,73,350** from the charitable activities undertaken by it. The Id. AR further pointed out that even if such loss is set off against the income from house property, there would remain an unabsorbed loss of ₹ **9,20,850 only**. In view of these facts, the Id. AR argued that no addition is required to be made to the total income of the assessee, as the trust's activities have resulted in a loss, and the imposition of tax would be unjustified in such circumstances.

6. On the other hand, the learned DR before us vehemently supported the order of the authorities below.

7. We have heard the rival contentions of both the parties and perused the materials available on record. The facts of the case on hand have already been elaborately discussed in preceding paragraphs. Hence, we are not inclined to repeat the same for the sake of brevity and convenience.

7.1 At the outset, we note that the learned AR for the assessee before us submitted he was instructed by the assessee not to press ground of appeal regarding the jurisdiction of the Assessing Officer (AO) with respect to the issue of the notice under **Section 148** of the Act. Hence, we hereby dismiss the issue of jurisdiction relating to the issue of notice under section 148 of the Act as not pressed.

7.2 Coming to issue of benefit of exemption under section 11 of the Act, in this regard, we note that, in accordance with the provisions of Section 12AA(2) of the Act, read with its proviso, the benefits under Sections 11 and 12 shall apply to the income derived from property held

under a trust for any assessment year, provided the assessment proceedings for that year are pending before the Assessing Officer at the time of granting registration under Section 12AA of the Act. This is subject to the condition that the trust's objectives and activities remain consistent for the relevant preceding assessment years or other years.

7.3 In the present case, the appellant trust was granted registration under Section 12AA of the Act on **March 24, 2023**, while the assessment under Section 147 read with Section 143(3) of the Act was completed on **November 2, 2023**. Consequently, the assessment proceedings for the relevant year were pending before the Assessing Officer on the date the trust received registration under Section 12AA of the Act.

7.4 Given these circumstances and considering the facts, there no dispute raised regarding the trust's objectives and activities which have remained consistent, it is our considered opinion that the appellant trust is eligible for exemption under Section 11 for the assessment year in question. Accordingly, the ground raised by the assessee in this regard is allowed.

7.5 Once it has been established that the appellant trust is eligible for exemption under Section 11 of the Income Tax Act for the year under consideration, the rent receipt of ₹30,75,000/- from Shifa Health Foundation Trust shall be treated as income derived from property held under trust. Accordingly, we set aside the findings of the learned CIT(A), who had treated the receipt as income under the head "Income from

House Property" and direct the Assessing Officer (AO) to delete the addition made by him on this account.

7.6 With respect to the alternative ground of appeal, it has been argued that the entire receipts, including the rental income, were utilized, leaving a nominal surplus of ₹1,650/- for charitable activities, in this regard, we are of the view that, since the addition has already been deleted by us while adjudicating the main ground of appeal, the issue raised in the alternative ground of appeal has become redundant. Accordingly, we do not find it necessary to provide a detailed finding on the alternative ground, and the issue raised by the assessee in this regard is dismissed as infructuous.

8. In the result, the appeal of the assessee is hereby partly allowed.

Order pronounced in court on 28th day of November, 2024

Sd/-
(SUNDARARAJAN K)
Judicial Member
Bangalore
Dated, 28th November, 2024
/ vms /

Sd/-
(WASEEM AHMED)
Accountant Member

Copy to :

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore