

**आयकर अपीलीय अधिकरण , चण्डीगढ़ न्यायपीठ , चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**‘SMC’ BENCH, CHANDIGARH**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER**

आयकर अपीलसं./I.T.A. No. 679/CHD/2024

निर्धारणवर्ष / Assessment Year : 2010-11

Shiva Educational Society, Bilaspur, Abdhanighar PO & Tehsil Ghumarwin Distt. Bilaspur, Himachal Pradesh	बनाम	Deputy Commissioner of Income Tax (Exemptions) Circle, Chandigarh, DCIT (Exemptions), Circle, Chandigarh, Fifth Floor, CR Building, Sector 17, Chandigarh
स्थायीलेखासं./PAN NO: AAGTS 3724B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपीलसं./I.T.A. No. 490/CHD/2017

निर्धारणवर्ष / Assessment Year : 2010-11

M/s Shiva Educational Society, Bilaspur, Abdhanighar PO & Tehsil Ghumarwin Distt. Bilaspur, Himachal Pradesh	बनाम	Asstt. Commissioner of Income Tax Officer, Mandi Circle, Distt. Mandi (HP).
स्थायीलेखासं./PAN NO: AAGTS 3724B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(PHYSICAL HEARING)

निर्धारितीकी ओरसे/Assessee by : Shri. B.M. Monga, Adv. &  
Shri Rohit Koura, Adv.

राजस्वकी ओरसे/ Revenue by : Dr. Ranjeet Kaur, Sr. D.R.

सुनवाईकी तारीख/Date of Hearing : 12.11.2024

उदघोषणाकी तारीख/Date of Pronouncement : 14.11.2024

## आदेश/Order

The captioned appeals have been preferred by the assessee against the separate orders passed by the Id. Commissioner of Income Tax, Appeal National Faceless Appeal Centre, Delhi dated 08.04.2024 and 31.01.2017 respectively for the Assessment Year: 2010-11. I.T.A. No. 679/CHD/2024 is taken as a lead case.

### **I.T.A. No. 679/CHD/2024**

2. The brief facts of the case are that the assessee claimed itself to be a charitable society. The assessee applied for registration under section 12A of the Income Tax Act, which was granted to the assessee for assessment year 2011-12 on 11.09.2010. The assessment for the impugned assessment year 2010-11 was pending on the said date. The assessee relied upon the first proviso to section 12A(2) of the Income Tax Act, and pleaded that where the registration has been granted to a Trust or Institution under Section 12AA of the Act, then the provisions of section 11 & 12 shall apply to the income of such an assessee from the property held under the trust for any preceding assessment year also, subject to the condition that the assessment of such preceding year is pending before the Assessing Officer on the date of such registration.

The Id. counsel, therefore, has submitted that in view of the aforesaid proviso, since the assessment for the year under consideration was pending before the Assessing Officer on the date of registration, hence,

the assessee is entitled to deduction as per provisions of sections 11 of the Act.

3. The Id. Assessing Officer however, held that the assessee cannot be granted the benefit of registration/deduction under Section 11 of the Income Tax Act observing that the said proviso to section 12A(2) has come into operation w.e.f 01.10.2014 and the same cannot be applied retrospective.

4. The Id. counsel for the assessee has relied upon the following judgments to stress the point that since the said proviso is a beneficial provision, hence the same is to be applied retrospectively:

<i>Sr. No.</i>	<i>Particulars</i>
1.	<i>Copy of Judgment of Hon'ble Amritsar Tribunal in the case of Punjab Educational Society Vs. ITO, [2017] 88 taxmann.com 113 (Amritsar Trib.).</i>
2.	<i>Copy of Judgment of Hon'ble Amritsar Tribunal in the case of St. Jude's Convent School, Vs. ACIT, [2017] 77 taxmann.com 173 (Amritsar Trib.).</i>
3.	<i>Copy of Judgment of Hon'ble Rajasthan High Court in the case of CIT(E) Vs. Shree Shyam Mandir, 2017 (10) TMI 1450 (Raj HC).</i>
4.	<i>Copy of Judgment of Hon'ble Chennai Tribunal in the case of Alpha Educational Trust Vs. DCIT(E), [2023] 150 taxmann.com 20 (Chennai -Trib.).</i>

5. It has been held that in the aforesaid case laws that the proviso to section 12A(2) being a beneficial provisions, intended to mitigate the hardship in case of genuine charitable institutions, is to be applied retrospectively.

6. The Id. DR could not point out contrary decision to the aforesaid proposition of law. In view of this, it is directed to the Assessing Officer to give the benefit of the first proviso to section 12A(2) of the Income Tax Act

to the assessee for the assessment year under consideration. This appeal of the assessee is treated as allowed.

**ITA No. 490/CHD/2017:** The ld. counsel for the assessee has submitted that since the assessee has been granted the required relief in ITA No. 679/CHD/2024, therefore, this appeal of the assessee has become infructuous at this stage. The same is accordingly hereby dismissed. However, the assessee will be at liberty to contest this issue on merits in case need be.

7. In the result, the appeal of the assessee in ITA No. 679/CHD/2024 is allowed and ITA No. 490/CHD/2017 is dismissed.

Order pronounced in the open court on 14.11.2024.

Sd/-  
(SANJAY GARG)  
Judicial Member

**Dated :** 14.11.2024

“GP/Sr.PS.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar