

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI GAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 737/JPR/2024

Alliance Francaise De Jaipur Society Opp. G-62, Shanti Nagar, Behind Neeraja Modi School, Greater Monsarovar, Jaipur.	बनाम Vs.	Commissioner of Income Tax (Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAOAA4691A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Praveen Saraswat, C.A.
राजस्व की ओरसे / Revenue by: Ms Alka Gautam (CIT)

सुनवाई की तारीख / Date of Hearing : 18/12/2024
उदघोषणा की तारीख / Date of Pronouncement: 19/12/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER .

By way of present appeal, appellant society has challenged order dated 31.03.2024 passed by Learned Commissioner of Income Tax (Exemption), Jaipur, whereby its application submitted in Form No. 10AB, seeking registration u/s 12AB of the Income Tax Act, 1961 (hereinafter referred to as "the Act") on 25.09.2023, has been rejected, on following four grounds:-

- Non registration under Rajasthan Public Trust Act, 1959.

- Assessee having business income and doing business in garb of charity.
 - Profitability.
 - Violation of FCRA Act.
 - Activities of international nature/violation of section 11(1)(a).
2. Arguments heard. File perused.

Discussion

3. **Non registration under Rajasthan Public Trust Act, 1959:-**

Vide impugned order, Learned CIT(E) has observed in para 2.5 that the applicant society was not eligible for registration u/s 12AB of the Act for want of its registration under Rajasthan Public Trust Act, 1959 (in short RPT Act) and non production of any such certificate.

As regards this ground of rejection, Ld. AR for the appellant has submitted that the applicant society has been recently registered on 04.12.2024 under RPT Act, and that today, he has submitted copy of said certificate, while applying one copy thereof to Ld. DR, as well.

True copy of certificate dated 04.12.2024 reveals the factum of registration of the applicant society under RPT Act, but the said document is to be considered by Learned CIT(E) on production of the requisite certificate and its verification.

4. **Assessing Having Business income and doing business in garb of charity & profitability:-**

Learned CIT(E) also rejected the application on the above said two grounds.

As per observations made in para 3.4 of the impugned order, the applicant society was found to have been providing services to Birla Education, Mayo College, IICS and to have deducted TDS, but, despite specific query raised before the applicant society, it did not submit any MOU which was called for to verify as to whether the amount received by the applicant society was by way of fees from students or towards professional services, said to have been rendered to the three institutions,

Learned CIT(E) went on to observe that the applicant society deliberately did not furnish copies of MOUs, with an to conceal that the society has actually been doing business.

On this aspect, Ld. AR for the applicant society has referred to the paper book submitted to the Registry on 30.10.2024. As per certificate appended to the Index of the said paper book, documents shown at serial No. 5(a) i.e. MOU for Birla Education Trust, and at serial No. 5(b) i.e. MOU for Indian Institute of Crafts & Design (IICD), now made available from page 34 to 39 and 40 to 45, were not submitted by the applicant society before Learned CIT(E).

When confronted with this certificate appended to the Index of the paper book, Ld. AR for the appellant admits in the course of arguments that these two documents running from page 34 to 38 and 40 to 45 were not submitted before Learned CIT(E).

As regards non production of the above said two arguments, Ld. AR has orally submitted that the applicant society could not get sufficient time for their production before Learned CIT(E), and has further requested that same may be taken on record.

5. As regards the explanation now furnished for non production of the above said MOUs before Learned CIT(E), record reveals that Learned CIT(E) issued notices to the assessee for 20.12.2023 and 12.03.2024, and further that request made by the representative of the applicant to submit certain details on or before 26.03.2024, was not acceded to as Learned CIT(E) took into account that the prescribed period for disposal of said application was going to expire.

The fact remains that the MOUs deserve to be considered by Learned CIT(E) to comply with the directions issued by him.

6. **Violation of FCRA Act:-**

Learned CIT(E) rejected the application while observing that this is a case of violation of provisions of FARA act, 2010, due to the fact that the

applicant society received donation worth Rs. 8,87,705/32 from French Embassy in Delhi for its use.

In para 5.3 of the impugned order, Learned CIT(E) extracted relevant part of the reply submitted by the appellant society as regards said amount.

The contention raised by the Ld. AR for the appellant is that nowhere in the impugned order, Learned CIT(E) specified as to which provision of FCRA,2010 was violated by the applicant society by receiving the said amount, particularly when the applicant society had claimed that in reality furniture/other assets were used by the said society at Jaipur office and in order to account for the said assets, already put to use ever since in its incorporation, when it was part of the French Embassy in India, said assets were shown in the books of accounts, as donation in kind and reflected as such even in ITR.

7. Ld. DR for the Department does not dispute that Learned CIT(E) has not referred to any specific provisions of FCRA-2010 which according to him the applicant society was found to have violated.

In case of any violation of provisions of any other law, Learned CIT(E) is required to specify about the provision in the impugned order.

In absence of any specification of relevant provision of law i.e. of FCRA, it cannot be said that Learned CIT(E) rejected the application on

valid ground. Accordingly, it is held that said ground could not be taken into consideration for rejection of the application, and findings recorded in the impugned order are set aside.

8. Activities of International nature/violation of section 11(1)(a):-

The only incident/activity (and not activities) referred to by Learned CIT(E) in para 6.1 of the impugned order is that Dr. Toolika Gupta, from the applicant society, had visited France to participate in the annual invitation by the French President, extended to all the Presidents to the said society all over the world.

Learned CIT(E) observed that the applicant society was admittedly not created for the purposes which tends to promote cause of International welfare in which India is interested.

It is significant to note that from the copy of the invitation available on record, it transpires that same is in French. Without having translation of the said invitation, it could not be decided that the purpose of the visit was or was not in consonance with the objects of the society.

From very beginning, it is the case of the applicant that prior to its incorporation, it was working as part of the French Embassy in India; that invitation was annual invitation extended to all Presidents of the society spread all over the world.

Having regard to all this, it cannot be said that society violated provision of Section 11(1)(a) of the Act or indulged in any activity of international nature. Accordingly, findings recorded by the Learned CIT(E) in this regard are set aside.

Result

9. In view of the above discussion, the appeal is disposed of for statistical purposes and matter is remanded to Learned CIT(E) for decision of the application afresh, after consideration of additional evidence i.e. MOUs and certificate on the point of registration of the applicant society under RPT Act, and that too in accordance with law.

The representative of the applicant society to appear before Learned CIT(E) as when so directed by the office of Ld. CIT(E).

File consignment to the record room after the needful is done by the office.

Order pronounced in the open court on 19/12/2024.

Sd/-

(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur
दिनांक / Dated:- 19/12/2024

Sd/-

(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Alliance Francaise De Jaipur Society, Jaipur.
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 737/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar