

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

(HYBRID HEARING)

I.T.A. No.225 & 551/Asr/2024

Assessment Year: N/A

Data Sher Singh Salaria Charitable Trust, Sohagpur, Arnia, Jammu, and Kashmir. [PAN:-AADTD3226G] (Appellant)	Vs.	ITO Ward-1(1), Jammu. (Respondent)
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Appellant by	Sh. P.N. Arora, CA.
Respondent by	Sh. Bharat Bhushan Garg, CIT. DR

Date of Hearing	07.04.2025
Date of Pronouncement	16.06.2025

ORDER

Per: Udayan Dasgupta, J.M. :

This appeal is filed by the assessee against the order of the Ld. CIT (E), Chandigarh, dated 27/02/2024, rejecting the application for registration u/s 12A(1)(ac) (iii) of the Act 61, filed by the assessee in Form 10AB on 14/09/2023, in absence of proof of genuineness of activities of the trust.

2. The grounds of appeal taken by the assessee in form 36 are as follows:

“1. That the Learned C.I.T. (Exemptions), Chandigarh, has erred on facts as well as on law in passing order u/s 12AA of the IT Act,

1961, in which application for registration u/s 12AA has been rejected without any rhyme & reason.

2. That the Ld. C.I.T. (Exemptions), Chandigarh, rejected the application for registration u/s 12AA without passing a speaking order and without giving any reasonable opportunity of being heard.

3. That Ld. C.I.T. (Exemptions), Chandigarh, did not appreciate that while granting the registration u/s 12AA, the CIT(E) is only to examine the genuineness and objects of the trust. The worthy CIT(E) miserably failed to appreciate that the trust was genuine and the objects of trust were charitable and thus clearly entitled to exemption u/s 12AA as it fulfils all the conditions laid down under the law.

4. That the registration claimed as such should have been granted and the Ld. C.I.T. (Exemptions), Chandigarh, has not been able to place any legal reason for not granting the registration.

5. That Ld. C.I.T. (Exemptions), Chandigarh did not appreciate that while granting registration only two conditions have to be satisfied i.e. the trust is genuine and the activities of the trust are charitable in nature.

6. That Ld. C.I.T. (Exemptions), Chandigarh, failed to appreciate that all the formalities required under the law were fulfilled and the registration as claimed should have been allowed as the purpose of the trust was charitable and was for the interest of public at large. Thus, it is prayed that the Ld. C.I.T. (Exemptions), Chandigarh, may be directed to allow the registration as it was created for charitable purpose and it was a genuine trust. The Ld. C.I.T. (Exemptions), Chandigarh, has not been able to place any material and reasons on record for rejecting the registration as claimed.

7. That Ld. C.I.T. (Exemptions), Chandigarh, has not been able to pinpoint out any specific and genuine reason for rejecting the registration. As such the order of the CIT is bad in the eyes of law and the Ld. CIT(E) may be directed to grant the registration as the trust fulfil all the conditions laid down under the law.”

3. The brief facts emerging from records are that the assessee is a public charitable trust formed vide a deed of trust dated on 23rd April, 2019, with registered office within the State of Jammu and Kashmir, more precisely at Sohagpur , Jammu – 181131, with main objects to provide medical facilities and education and for overall development of the people of the border areas of Jammu and to establish a Goushalla to serve the old and ailing cows abandoned by people and to provide medical aids to the same and to educate the local people regarding upkeep and health of the cows.

3.1 The assessee has been granted provisional registration u/s 12A(1)(ac)(vi) of the Act 61, vide order dated 6th April, 2022, valid for Asst year 2022-23 to AY 2024-25. The assessee applied for final registration on 14th September, 2023, in form 10AB along with necessary enclosures.

3.2 In order to cause necessary verification regarding the objects and genuineness of the activities of the trust, the Ld. CIT (E) issued queries against which the assessee has responded with necessary particulars. On examination of the same, it was observed by the Ld. CIT(E), from the financial statements

submitted that the assessee has shown expenditure on account of “ *Bhandara Expenses* ” which is expended on a single day in a particular year for last three financial years 2020-21 , 2021-22 and 2022-23 , but no expenditure has been *incurred for medical camp and free distribution of medicines*, and for imparting of *education to students of the border area* , as stipulated in the object clause of the deed of trust. As such in absence of any such activities being carried out as stipulated in the trust deed, the Ld. CIT (E) was not satisfied regarding the genuineness of the activities of the trust and as such the application for registration has been rejected u/s 12AB with necessary consequences.

4. Now the matter is in appeal before the tribunal on the grounds contained in the memorandum of appeal.

5. The Ld. AR of the assessee filed a paper book containing 164 pages, consisting of copies of provisional registration certificate u/s 12A (1) in form 10AC dated 6th April 2022, copy of application for final registration in form 10AB, details of expenses incurred ledger account copies, copy of Bhandara expenses (distribution of free food in langar) for local people, People Welfare expenses A/c – books and stationery A/c (page 159 of PB) – Rs. 81,472/-, Medicine Expenses Rs. 45,000/- (page 139 of PB), tent and camp expenses, etc., and rest of the expenses relating to labour charges, vegetables, and consumables relating to running of bhandara.

5.1 The Ld. AR submitted that the rejection order has been passed by the Ld. CIT (E) , on the basis of ledger accounts submitted by the assessee , but without any further opportunity of hearing to the assessee to explain his defects if any and without any issue of show cause , because the assessee if provided an opportunity could explain the expenditure incurred on providing medical relief to the poor people of the border area and he referred to enclosed photographs where medical camps are organised by the trust for medical check up and treatment of local people of the border areas , by attending doctors , and also referred to distribution of medicines for treatment , apart from of course photographs relating to running of langar/ bhandaras , which according to the Ld AR , is a charitable activity for benefit of the local people and is a part of all round development of the area (*as per the trust deed*).

5.2 He further referred to the decision of the *Hon'ble Punjab and Haryana High Court in the case of (i) CIT (E) vs Shri Shirdi Sai Darbar Charitable Trust [2017] 81 taxmann.com 49, order dated 27/03/2017,*
(ii) CIT – I Ludhiana vs Baba Kartar Singh Dukki Educational Trust [2014) 42 taxmann. com17 dated 8th October, 2013, and
(iii) CIT , Rohtak Vs BKK Memorial Trust [2013]29taxmann.com286 (Punjab and Haryana HC) order dated 16th October, 2012,

to place his argument that for the purpose of granting registration u/s 12AA, only the objects of the trusts are to be seen whether they are charitable in nature or not and to examine the genuineness of the objects of the trust. He further submitted that section 13 of the Act 61, comes into play at the time of allowability of exemption u/s 11 , and not at the time of granting registration u/s 12AA of the Act 61, as such the AR prayed that in the instant case , since the objects are of charitable nature and the activities though carried out in a small scale consisting of free medical camp, imparting of education with free books and stationery and running of langar , without any discretion of caste creed or colour , are all of charitable nature, and since the registration has been wrongly denied under the Act 61, and the same may please be allowed.

6. Per contra the Ld. DR relied on the order of the Ld. CIT (E) and submitted that in absence of proper documentary evidences before the authorities there can be no recording of satisfaction regarding genuineness of the activities and he prays for upholding the order of Ld. CIT (E) .

7. We have heard the rival submissions and considered the materials on record, and we find that the objects of the trust as per the deed which describe activities such as providing of medical facilities , providing of education and organising free langar, (*under all round development*) are certainly charitable in nature and from the paper book enclosures , filed by the assessee, photographs of medical camps

and medical treatment and running of langar are visible and from the ledger accounts filed there are expenses relating to medical , books and stationeries, and of course langar (*free food*) are noticeable , and all these activities are certainly charitable in nature.

7.1 We also note that before rejection of the application no show cause notice was issued to the assessee to file any explanation in rebuttal, which violates the principles of natural justice.

7.2 As such we are of the opinion that justice will be best served if the matter is remanded back to the *Ld. CIT (E)* for consideration of the application for registration afresh as per the provisions of law laid down by the Hon'ble Punjab and Haryana High court, cited above and we also direct the assessee to furnish all supporting documentary evidences , and explanations , in support of the charitable objects and to determine the genuineness of activities carried out by the trust as per its objects clause contained in the deed of trust , and to fully cooperate with the *Ld CIT (E)* for disposal of the registration application .

8. In the result the appeal of the assessee is allowed for statistical purpose.

ITA / 551 / ASR / 2024 (Asst Year : 2024-25)

9. This is an appeal filed by the same assessee against the cancellation order of the *Ld. CIT (E)* dated 5th August, 2024, vide an intimation u/s 12A(1)(ac)(ii) ,

where it is intimated that the application in Form 10AB dated 5th March 2024, has been filed under a wrong clause , and the said application is not maintainable .

10. The Ld. AR of the assessee submitted that this appeal is incorrectly filed and since the ITA – 225/ ASR / 2024 is heard and remanded back for fresh consideration this appeal becomes inconsequential and hence not pressed.

11. As such this appeal in ITA/ 551/ASR/2024, is dismissed as infructuous.

12. In the result, the appeal of the assessee in ITA 225/Asr/2024 is allowed for statistical purposes, and the ITA No. 551/Asr/2024 is dismissed.

Order pronounced on 16.06.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(KRINWANT SAHAY)
Accountant Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

Sd/-

(UDAYAN DASGUPTA)
Judicial Member

True Copy
By order