



ITA No.3336/Mum/2015
Gowalis Industries Association. Thane

आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।

**BEFORE SHRI JOGINDER SINGH, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No. 3336/Mum/2015

GOWALIS INDUSTRIES ASSOCIATION 101-103 Indira Udyog Bhawan Golani Complex Waliv Vasai (E) Thane	बनाम/ Vs.	PR. COMMISISONER OF INCOME TAX (EXEMPTIONS) Pune
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAAAG-7660-H		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri Bhupendra Shah, AR
प्रत्यर्थी की ओर से/Respondent by	:	Ms. Vidisha Kalra, CIT, DR

सुनवाई की तारीख / Date of Hearing	:	06/02/2017
घोषणा की तारीख / Date of Pronouncement	:	07/02/2017



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आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. In the captioned appeal, the assessee is aggrieved by rejection of application for registration u/s 12A of the Income Tax Act for approval of assessee Trust [Trust] by Pr.CIT (Exemption) [PCIT(E)] order dated 25/03/2015.

2. Briefly stated, the assessee was an association of entrepreneurs and businessmen carrying on specified business in industrial units and traders connected with industries in certain specified areas. It was registered as society under Societies Registration Act, 1860 vide certificate dated 27/05/1998. Claiming itself as a public charitable trust, it applied for registration in the prescribed manner u/s 12A(a) of the Income Tax Act, 1961 before appropriate authority vide application dated 03/09/2014 by furnishing various documents. The Ld. PCIT(E) after examining the documents and appreciating the various explanations furnished by the assessee, concluded that the main object of the society was to carry out the activities for the promotion of trade and commerce. A perusal of various clauses revealed that it was setup for the purpose of the benefit of its members and hence the primary objective of the society was not of charitable nature within the meaning of Section 2(15) and hence the society was not entitled for the said exemption. Aggrieved, the assessee is in appeal before us.

3. The Ld. Counsel for Assessee [AR] drew our attention to various documents placed in the paper-book to assert that the society was formed to benefit the particular section of the society at large and the main objective of the society was of charitable nature within the meaning of Section 2(15) and hence the assessee was entitled for the said exemption. At the application stage, the only thing required to be examined by the lower authorities was that the objects of the trust were broadly of charitable nature and nothing beyond. The primary objective of the assessee trust was to undertake activities of charitable nature only and it was



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working like any other trade associations who were granted similar registrations. Further, there were wide powers in the act to cancel the registration of the assessee if the assessee violated any of the registration conditions. Reliance was placed on the order of Mumbai Tribunal in *The Bengal Foundation Vs DIT(E) ITA No. 1546/Mum/2013 order dated 30/09/2015* and *Shree Vile Parle Vardhman Sthanakvasi Jain Foundation Vs. DIT(E) 43 Taxmann.com 377*, the copies of which has been placed before us, for the contention that having mixed objectives do not vitiate the registration application of the assessee.

4. Per *Contra*, the Ld. Departmental representative, drew our attention to the fact that the assessee was formed way back in the year 1998 and a perusal of its financial statements for various financial years placed in the paper-book reveal that it has not undertaken any charitable activity of single rupee over all these years despite earning surplus. The case laws relied upon by the assessee were distinguishable on the fact that the assessee in the present case was already in existence for several years whereas in the case laws relied upon, the assessee was newly created, the financial statements of which were not available at the time of registration application. Further, the assessee was working like a club to serve business interest of its members. The membership was restricted to particular section of the society and that too after payment of membership fees. It is well established that to get registration, the trust must be created for the benefit of public at large and its objective must primarily be of charitable nature, which is not the case here.

5. We have heard rival contentions and perused relevant material on record including cited case laws. The basic facts are not in dispute. A perusal of the Memorandum of Understanding reveals that the society was an association of businessmen and traders working in specified business and in specified areas. The main objective of the society was to promote industry, diffusion of knowledge and solving common problems and difficulties faced by the members. Further, its aim was to aid, advise and guide the members in the method of marketing and sale of their products and similar other objectives as contained in



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various clauses of the memorandum. In nutshell, its primary aim was to serve the varied business interest of its members and nothing more. Any person having industries could become its ordinary member after payment of certain fees. A perusal of its financial statements for the year ending 31/03/2004 & 31/03/2005 reveals that it mainly incurred expenditure on conducting AGM and various other routine and establishment expenses. The case laws relied upon by the assessee has rightly been distinguished by the Ld. DR. Hence, we find strength in the arguments advanced by Ld. DR and no hesitation in concluding that no activity of charitable nature was either undertaken or proposed to be undertaken by the assessee. Its main objectives were to serve the varied business interest of its members and nothing more and that too was confined to restricted business lines and area. Hence, finding no infirmity in the conclusion drawn by lower authority, we dismiss the assessee's appeal and see no reason to disturb the same.

6. The assessee' appeal stand dismissed.

Order pronounced in the open court on 07th February, 2017

Sd/-

(Joginder Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 07.02.2017

PS:- Pooja K.

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai



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6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai