

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री भागचन्द, लेखा सदस्य एवं श्री कुल भारत, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI BHAGCHAND, AM AND SHRI KUL BHARAT, JM

आयकर अपील सं./ITA No. 338/JP/2016  
निर्धारण वर्ष/Assessment Year : N.A.

Rudrakash Professional Education Trust, Plot No.-29, Jaishinghpura Road, opposite Cement Godam, Ajmer Road, Jaipur (Raj.)-302026	बनाम Vs.	The Commissioner of Income Tax Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AACTR4843G		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Shri Nikhlesh kataria(CA)  
राजस्व की ओर से / Revenue by: Shri Virendra Mehta (CIT)

सुनवाई की तारीख / Date of Hearing : 02.03.2017.  
घोषणा की तारीख / Date of Pronouncement : 21/03/2017.

आदेश / ORDER

PER SHRI KUL BHARAT, JM.

This appeal by the assessee is directed against the order of Id. CIT (E),Jaipur dated 27.10.2015. The assessee has raised the following grounds of appeal:

1. "The assessment order passed u/s 12AA(1)(b) is bad in law as well as on the facts of the present case and hence, the same may please be deleted.
  - 2.1 The Id. CIT(E) erred in law as well as on the facts of the present case in holding the objects and activities of the Trust as not charitable in nature.
  - 2.2 The Ld. CIT(E) erred in law as well as on the facts of the present case in refusing the assessee to grant exemption u/s 12AA of the IT Act, 1961.
3. The appellant prays your Honour's indulgence to add, amend, modify or delete all or any ground of appeal."
2. Briefly, stated the facts are that the assessee filed an application in the form no. 10A, seeking registration u/s 12AA of the Income Tax Act, 1961(hereinafter referred to as the Act). The said application was rejected by the Id. CIT on the

ground that the activity of the trust are not charitable nature, as it is running technical course. The Id. Counsel for the assessee reiterated the submissions as made in the written submissions. The contention of the assessee is that, the Id. CIT has not appreciated the fact in right perspective. The Id. Counsel for the assessee has placed reliance upon the judgment of Hon'ble Delhi High Court rendered in the case of Delhi Music Society Vs. DGIT 357 ITR 265(Del) also decision of the Co-ordinate Bench rendered in the case of Additional Director of Income Tax(E) vs. Samudra Institute of Maritime Studies Trust ITA 2668/Mum/2012.

3. On the contrary, the Id. Departmental Representative has opposed the submission and submitted that the activities of the assessee is not of charitable nature as has been imparting the technical courses. There is no systematic school education.

4. We have heard the rival contentions, perused the material available on record and gone through the orders of the authorities below. The application of the assessee was rejected by the Ld. CIT (E) by observing as under:

"6. On examination of details filed by the applicant, it is noticed that trust is running two professional courses of providing training in the field of welding and fabrication and Hotel assistance. The training is provided after charging prescribed fee for a particular course. The provisional Income & Expenditure account for the year ending on 31/03/2015 reproduced as under:-

**Provisional Income and Expenditure Account (F.Y. 2014-15)**

<b>Expenditure</b>	<b>Amount</b>	<b>Income</b>	<b>Amount</b>
Activity Expenses	17425.00	Course Fees	169500.00
Audit Fee	5618.00		
Bank Charges	112.00		
Conveyance Exp.	4274.00		
Legal Fee	5100.00		
Printing & Stationary	8463.00		
Rent Exp.	30000.00		

Salary	110486.00		
Surplus transferred to corpus fund	(-) 11978.00		
<b>Total</b>	<b>169500.00</b>	<b>Total</b>	<b>169500.00</b>

From the Income & Expenditure account, it is clear that the trust is earning income in the form of fee charged from running of vocational courses. This sort of activity cannot be regarded as "education" within the meaning of section 2(15) of the Act.

7. The word "education" used in section 2(15) for charitable purpose stipulates the systematic education or scholastic.

The Apex Court had an occasion the provisions of section 2(15) of the Act in *Sole Trustees, Loka Shikshana Trust vs. CIT* [1975] 101 ITR 234 (SC). After considering the provisions of section 2(15) of the Act, the apex court found that all kinds of acquiring knowledge will not come within the meaning of "education". What "education", Connotes in character of students by normal schooling. In facts, the Apex court has observed as follows at page 241 of ITR:

*"The sense in which the word "education" has been used in section 2(15) is the systematic instruction, schooling or training given to the young is preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. The word "education" has not been used in that wide and extended sense, according to which every acquisition of further knowledge constitutes education. According to this wide and extended sense, travelling is education, because as a travelling you acquire fresh knowledge, likewise, if you read newspapers and magazines, see pictures, visit art galleries, museums and zoos, you thereby add to your knowledge. Again, when you grow up and have dealing with other people, some of whom are not straights, you learn by experience and thus add to your knowledge o the ways of the world. If you are not careful, your wallet is liable to be stolen or you are liable to be cheated by some unscrupulous person. The thief who removes your wallet and the swindler who cheats you teach you a lesson an in the process make you wiser though poorer. If you visit a night club, you get acquired with and add to your knowledge about some of the not much revealed realities and mysteries of life. All this in a way is education in the great school of life. But that is not the sense in which the work "education" used in clause (15) of section 2. Wheat education connotes in that clause is the process of training and developing the knowledge, skill, mind and character of students by normal schooling."*

8. From the above judgment of the Apex court it would be abundantly clear that there should be a systematic instruction to the students by way of normal schooling. Mere training activities may provide some

kind of knowledge to the students. But that kind of acquisition of knowledge through training courses cannot fall within the meaning of "education" as provided in section 2(15) of the Act. As the Apex Court observed, one may acquire knowledge in the course of travelling; during the course of reading newspaper; etc. but that kind of knowledge cannot fall within the term "education" as provided in section 2(15) of the Act. There should be a normal schooling by way of regular and systematic instruction.

8. From the discussion made above, it is clear that the activities of the trust are not charitable in nature as it is running technical courses, therefore, it cannot be held as charitable within the meaning of section 2(15) of Income-tax Act, 1961."

5. Ld. Counsel has placed reliance on the judgment of Hon'ble Delhi High Court rendered in the case of Delhi Music society vs. Director General of Income Tax. The Hon'ble High Court held that Hon'ble Supreme Court in the case of Loka Shikshana Trust has held that there should be a process of training and developing the knowledge skill, mind and character of the students by process of normal schooling. We find that the Hon'ble Court has observed that normally coaching centre is running for shorter period and there have no strict rules and regulations as in educational institutions. There is no such thing as an academic year, strict discipline and requirement of attendance are not are not enforced. Further they are run on commercial lines and with a profit motive as per the object of the society. The Id. Counsel for the assessee has brought to our notice the decision of the coordinate bench rendered in the case of Additional Director of Income Tax(E) vs. Samudra Institute of Maritime Studies Trust ITA 2668/Mum/2012, wherein the coordinate bench decided the issue as under:

- "5. We have heard the arguments of both the sides and also perused the relevant material on record. It is observed that the claim for the

assessee for exemption u/s 11 was disallowed by the AO in AY-2007-08 on the similar ground and the order of the Ld. CIT(A) reversing the order of the AO and allowing the claim of the assessee for exemption claim u/s 11 was upheld by the Tribunal vide its order dated 30/11/2011 passed in ITA No. 5760/Mum/2010 for the reasons given in para 9.6 which reads as under:

*We find the Delhi Bench of the Tribunal in the case of S.R.M Foundation of India(supra) while deciding the issue u/s.10(22) of the IT Act has held that there is no requirement prescribed u/s 10(22) that the institution should be recognized by an University or State or Central Government. The Tribunal in the said decision held 33 lessons of what is termed a Science of Creative Intelligence (SCI) which are in the nature of Yoga Classes as education. The Tribunal while deciding the issue has considered the decision of the Hon'ble Supreme Court in the case of Sole Trustee, Lok Shikshan Trust (supra). We find the various other decisions relied on by the Id. Counsel for the assessee also support its case. The decision in the case of Bihar Institute of Mining and Mine Surveying (supra) in our opinion is not applicable to the facts of the present case. In that case it was coaching of students for particular examination, for which it was held that coaching institution is not a charitable institution within the meaning of section 2(15). However, in the instant case the assessee is giving training in the area of Pre Sea and Post Sea to sea men. The various other decisions relied on by the AO are also distinguishable and not applicable to the facts of the present case. In our opinion, merely because the courses are not approved by the DG Shipping or merely because there is huge surplus in the non-approved courses than the approved courses cannot be a ground for denial of exemption u/s 11 as long as the Trust is imparting education as per the objects of the Trust. In this view of the matter and in view of the detailed observation given by the Id. CIT(A) on this issue we do not find any infirmity in the same and accordingly the same is upheld. The grounds raised by the Revenue are accordingly dismissed."*

6. As the issue involved in the year under consideration as well as all the material facts relevant thereto are similar to that of assessment year 2007-08, we respectfully following the decision of co-ordinate Bench of this Tribunal rendered for assessment year 2007-08 and uphold the order of the Id. CIT(A) allowing the claim of the assessee for exemption u/s 11 of the Act."

One of the object of the assessee's trust is that to establishment of training and schooling development centre and institutions for professional education and training. As per the assessee it has been providing vocational courses which cannot be equated with any coaching institute. The assessee is also imparting professional courses. We notice that, the assessee has also other objectives as per the trust

deed. Therefore, after considering the totality of the facts and in the light of the decision of the Co-ordinate Bench rendered in the case of Additional Director of Income Tax(E) vs. Samudra Institute of Maritime Studies Trust ITA 2668/Mum/2012, where of the view that CIT should reconsidered application of the assessee for registration after considering the case laws as relied by the assessee. In view of the above discussion the application of the assessee is restored to the file of the Id. CIT for decision afresh.

6. In the result, appeal of the Assessee in ITA No. 338/JP/2016 is allowed for statistical purposes.

Order is pronounced in the open court on 21 .03.2017.

Sd/-

( भागचन्द )  
( BHAGCHAND)

लेखा सदस्य/Accountant Member  
Jaipur

Dated:- 21/03/2017.

Pooja/

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

1. The Appellant- Rudraksh Professional Education Trust, Jaipur.
2. The Respondent –The Commissioner of Income Tax, Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 338/JP/2016)

Sd/-

( कुल भारत )  
( KUL BHARAT )

न्यायिक सदस्य/Judicial Member

आदेशानुसार/ By order,

सहायक पंजीकार / **Assistant. Registrar**