

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER AND
SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA No.1216/M/2013
Assessment Year: 2013-14**

M/s. Vanitaben Gouseva Trust, S.A. Kanji & Co., 206, Rewa Chambers, Sir Thackersay Marg, New Marine Lines, Mumbai – 400 020 PAN: AABTV5165A	Vs.	Director of Income Tax (Exemption), 6 th Floor, Piramal Chambers, Lalbaug, Mumbai - 400012
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri G.M. Doss, D.R.

Date of Hearing : 13.08.2015
Date of Pronouncement : 27.11.2015

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee trust against the order dated 27.09.2012 of the Director of Income Tax (Exemption) [hereinafter referred to as the DIT(E)] relevant to assessment year 2013-14 whereby he has rejected the application of the trust for registration under section 12A of the Act. None has come present on behalf of the assessee despite notice. Hence, we proceed to decide the appeal on merits after hearing the Ld. D.R.

2. We find that the Ld. DIT(E) had called for various details from the assessee such as PAN card of the settler and trustees copies of bank account, NOC in respect of office premises, certificate of registration issued by Charity Commissioner, copies of accounts and note on activities undertaken by the

assessee trust. The assessee trust submitted the requisite documents. On perusal of the said documents, the Ld. DIT(E) observed that the trust being a new and recently created, no major activity was carried out by it so far. However, the trust had spent Rs.5,26,000/- for construction of cow shed meant for running goushala. It was also claimed that the trust had distributed notebooks at village Mangaon, district Raigad, but no documentary proof was submitted regarding this activity. The Ld. DIT(E), after perusal of the documents and considering the submissions of the assessee trust, observed that the assessee trust had not carried out any concrete activity so far which would enable the registering authority to examine whether the activities carried out are genuine and are in accordance with objects for which the trust has been created. He therefore held that the application of the trust for grant of registration was premature. He accordingly rejected the application of the assessee trust. Being aggrieved, the assessee trust has come in appeal before us.

3. We have heard the Ld. D.R. and have also gone through the records. So far as the issue that the trust has not been able to bring any evidence on record to establish that any activity of the trust/association has been taken for the charitable purposes is concerned, the Delhi Bench of the Tribunal, in the case of 'Dharma SansthapakSangh (Niyas) vs. CIT' (2008) 118 TTJ (Del) 823 : (2008) 13 DTR (Del) (Trib) 589; has held that carrying on of charitable activity, at the stage of commencement is not relevant to decide whether such trust/institution is entitled for registration. Again in the case of 'SardariLalOberai Memorial Charitable Trust vs. ITO' (2005) 3 SOT 229 (Del), the Delhi Bench of the Tribunal has held that section 12AA takes care of a situation where activities have been carried out by a trust, whereas it does not lay down anything negative in cases where no activities have been carried out,

like in the instant case. In such a case, the sole criterion of grant/non-grant of registration would be for the CIT to see the objects of the trust. If the objects of the trust are charitable, the fact that no activity has been carried out by the trust, does not entitle the CIT to hold that the trust is not entitled to registration. Moreover in this case, the applicant trust has already started its activities as it has spent Rs.5,26,00/- for building of cowshed meant for running of Gaushala which is a part of its objects.

4. In view of our above observations, we hold that there was no justification for the DIT(exemptions) for refusing the registration u/s.12AA of the Act to the assessee. The orders of the DIT(Exemptions) are therefore reversed and the Ld. DIT(Exemptions) is hereby directed to grant the registration u/s.12AA of the Act to the assessee.

5. In the result appeal of the assessee is hereby allowed.

Order pronounced in the open court on 27.11.2015.

Sd/-
(D. Karunakara Rao)
ACCOUNTANT MEMBER

Sd/-
(Sanjay Garg)
JUDICIAL MEMBER

Mumbai, Dated: 27.11.2015.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.