IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No. 279 of 2017 (O&M)

Date of Decision:27.08.2018

The Commissioner of Income Tax (Exemptions), Chandigarh
.......Appellant

Versus

M/s Amandeep Educational Society, Amritsar
......Respondent

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR. JUSTICE AVNEESH JHINGAN, JUDGE

Present: Mr. Denesh Goyal, Senior standing counsel
for the appellant.

Mr. K.L. Goyal, Sr. Advoate with
Mr. Umang Goel, Advocate
for the respondent.

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AVNEESH JHINGAL, J.

The Revenue (hereinafter referred to as 'the appellant') has filed the present appeal against the order dated 15.03.2016 passed by Income Tax Appellate Tribunal, Amritsar Bench, (for brevity 'the Tribunal') allowing the appeal of the assessee and directing the Commissioner of Income Tax-I (for brevity 'CIT') to grant the registration under Section 12AA of the Income Tax Act, 1961 (for brevity 'the Act').

2. According to the appellant, following substantial questions of law arise for consideration in this appeal:

> (i) Whether on the facts and circumstances of the case, the order of the ITAT is not perverse in holding that the CIT has not doubted the objects and genuineness of the activities of the applicant and thereby directing to grant registration to the applicant whereas the CIT had clearly concluded that the assessee-society was not doing any

charitable work, an inference, based on the material on record?

(ii) Whether on the facts and circumstances of the case, the order of the ITAT is not perverse in directing CIT to grant registration without actually addressing the objections of the CIT which led to the rejection of application for registration?

(iii) Whether on the facts and circumstances of the case, the ITAT was justified in directing the CIT to grant registration on basis of incorrect finding of facts which were not relevant for the grant of registration?

(iv) Whether on the facts and circumstances of the case the ITAT has erred in directing the registration to be accorded instead of reverting it back for re-examination without itself commenting upon the genuineness of activities and their co-relation with the objects of the assessee-society?

3. The assessee-society had been created mainly with the object of dissemination of knowledge in the field of medical science. The assessee filed an application under Section 12AA (1) of the Act, on 18.02.2014. The CIT issued a show cause notice, to which the assessee filed reply. In the reply, the assessee reiterated the objects of the Society. It was further stated that in furtherance of Clause 11 of the objects of the assessee-society, two days of residential course on ankle and foot surgery was organized in Amritsar. It was further explained that the assessee-society charged Rs. one lakh as sponsorship fee from Amandeep hospital for sponsoring the two days course. The said fee was received by cheque dated 30.05.2014.

4. The CIT vide order dated 22.08.2014 rejected the application for registration under Section 12 AA (1) of the Act, on the ground that the work done by the society does not fall within the ambit of Section 2(15) of the Act. The CIT relied upon the fact that the assessee-society received a sum of Rs.one lakh from Amandeep Hospital on 27.03.2014 and returned

the same amount to Amandeep Hospital on 31.05.2014 and no reasons were given for raising such a loan. Further, in the international conference held by the assessee-society, in the invitation brochure, the invitation for the conference was given by some Parekh Family Foundation and Amandeep Hospital and Clinics.

5. Aggrieved of the order, the assessee filed an appeal before the Tribunal. The Tribunal allowed the appeal vide order dated 15.03.2016 and directed the CIT to grant registration to the society.

6. We have heard learned counsel for the parties.

7. Learned counsel for the appellant contended that the Tribunal erred in recording the finding that the loan taken by the assessee-society from Amandeep Hospital was returned on the very next day. He further contended that the Memorandum of Association never empowered the Society to raise any loan from any member or from any private institution like Amandeep Hospital.

8. On the other hand, learned counsel for the assessee argued that the object of the assessee is duly covered under Section 2(15) of the Act. The assessee is engaged in charitable activity and two days course was held in furtherance of the object of the assessee.

9. The contentions raised by learned counsel for the appellant are not well founded. The Tribunal has given a categorical finding to the effect that the main object of the assessee is dissemination in the field of medical science and two days course was held in furtherance of the object of the society. Such a course was organised to make the attending Doctors knowledgeable in the field of foot and ankle surgery.

10. The relevant portion of the order of Tribunal is reproduced below:

> 7. "In the present case, neither the objects, nor the genuineness of the activities of the assessee have been doubted by the ld. CIT. The assessee-society was formed mainly with the objective of dissemination of knowledge in the field of medical science. It has not been disputed that it was in furtherance of its avowed objects, in consonance with clause 11 of the objects of the society; that it organized a two days residential course in ankle and foot surgery in Amritsar. This course can by no means be said to be not in furtherance of the assessee's object of dissemination in the filed of medical science. Such a course would obviously make the attending doctors knowledgeable in the medical science filed of foot and ankle surgery. The course was attended by almost 100 doctors/delegates.
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> 8. The assessee society charged Rs.1,00,000/- as sponsorship fee from Amandeep Hospital for sponsoring the aforesaid course. The Ld. CIT has objected that it was the said Amandeep Hospital which, alongwith one Parekh Family Foundation, which gave the invitation for the course (wrongly mentioned by the CIT as a 'conference') and that only the bank account of the assessee society was used to receive fund from the delegates, PG students and foreign delegates. The CIT has objected that no reason was given for raising the loan from Amandeep Hospital; that the method of accounting of the society does not empower it to raise loans from any of its members or from institutions like Amandeep Hospital.
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> 9. The Ld. CIT has noted that the loan of Rs.1,00,000/- from Amandeep Hospital was received by the Society, by cheques, on 30.05.2014. The Ld. CIT has also himself observed that this amount was returned on the very next date. i.e. on 31.05.2014. That being so, there remained no amount with the assessee-society.
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> 10. Apropos the funds received by the Society from the delegates, PG students and foreign delegates, these funds have not been observed by the CIT to have been taken by

the society as loans. The ld. CIT has not pointed out anything precluding the society from receiving the funds.

11. The ld. CIT has observed that the society has utilized its funds for the benefit of interested persons. However, as to how this is so, has not been elaborated."

11. Learned counsel for the appellant contended that the Tribunal had erred in accepting the appeal of the assessee after holding that the loan was returned on the very next day. According to the learned counsel, this fact was a pointer towards non-genuineness of the activities of the assessee. It has not been disputed that the loan was received by the assessee-society through cheque and the amount was returned back to Amandeep Hospital. Though CIT recorded that the sum was received on 27.03.2014 and was returned on 31.05.2014, whereas the Tribunal held that the amount was received on 30.05.2014 and returned on 31.05.2014. The important aspect is that no amount remained with the assessee-society. The sum received for organizing the two days course was returned by the assessee-society. The genuineness of the transaction was never doubted.

12. The objection of the revenue that the society could not have raised a loan is not sustainable, as the amount was returned back and no amount remained with the society. The objects of the assessee-trust have been found to be charitable. The registration to the assessee by the CIT cannot be denied on mere suspicion and conjectures. No fault can be found in the order of the Tribunal directing the grant of registration to the assessee-trust. It is further clarified that in case, subsequently, the revenue is satisfied that the activities of assessee-trust are not for charitable purpose, the department can always initiate action for cancellation of registration under Sub Section (3) of Section 12 AA of the Act.

13. The order of the Tribunal warrants no interference. No error has been pointed out in the findings recorded by the Tribunal much less shown to be perverse. No substantial question of law arises.

The appeal is, accordingly, dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

27.08.2018
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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No