IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA No.434 of 2019 (O&M)
Date of Decision: 13.01.2020

The Commissioner of Income Tax (Exemptions), Chandigarh

Appellant

Versus

M/s The Rural Education & Women Welfare Society, SBS Nagar

Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Denesh Goyal, Sr. Standing Counsel for the Revenue.

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AJAY TEWARI, J (Oral):

CM No.20179-CII of 2019:

This is an application for condonation of delay of 11 days in filing the present appeal.

Allowed as prayed for. The delay of 11 days in filing the present appeal is condoned.

ITA No.434 of 2019:

This appeal has been filed against the order dated 17.1.2019 passed by the Income Tax Appellate Tribunal Camp Bench at Jalandhar (for short, 'the Tribunal') allowing the appeal of the assessee and thereby holding it entitled for exemption/approval under Section 10(23C)(vi) of the Income Tax Act, 1961 [for brevity 'the Act']. Following substantial questions of law are raised:

I. Whether on the facts and circumstances of the case the Hon'ble ITAT is right in not adjudicating the fact that *the assessee's stated objects does not aim to have its activities 'solely for education', which is one of the main condition for granting approval u/s 10(23C)(vi)?*

II. *Whether on the facts and circumstances of the case, the Hon'ble ITAT is right in not adjudicating the issue that despite assessee's receipts in excess of Rs. Two crores form F.U. 2013-14 onwards, applicant did not filed its return of income, which is necessary for the purpose of determination of genuineness of activities?*

III. *Whether on the facts and circumstances of the case, the Hon'ble ITAT has erred in not adjudicating the issue that the assessee has filed application for grant of approval u/s 10(23C)(vi) for the first time on 17.10.2016, though the assessee has been claiming exemption u/s 10(23C)(vi) and simultaneously filing its audit report in form 10BB from F.Y. 2013-14?*

IV. *Whether on the facts and circumstances of the case, the Hon'ble ITAT has erred in not adjudicating the findings of the CIT(E) that the main emphasis of the society is mainly on creation of assets rather than dedeployment of funds towards deduction?*

V. *Whether on the facts and circumstances of the case, the Hon'ble ITAT is right in not adjudicating the issue that the assessee society has generated the surplus over the reasonable permissible limit i.e. 6% to 15% of the gross receipts, as laid down by the Apex Court in the case of Viswesvaraya Technological University Vs. ACIT in Civil appeal Nos. 4361-4366 of 2016 (supra)?*

VI. *Whether on the facts and circumstances of the case, the Hon'ble ITAT is right in not adjudicating the issue that the emphasis of the society mainly on adding to their vehicles, busses etc during FY 2013-14 and 2014-15 creating there by an additional source of income that cannot directly qualify for the tag "education"?*

VII. *Whether on the facts and circumstances of the case, the* *order of the Appellate Tribunal is contrary to the evidence and material on the record of the case and therefore, perverse?"*

Before proceeding further, it may also be noticed that registration under Section 12AA of the Act was allowed to the assessee in appeal by the Tribunal, the order was upheld by this Court. The Commissioner of Income Tax (Exemptions), Chandigarh [for short, 'CIT (E)'] while dealing with the application under Section 10(23C) of the Act considered the fact that there is denial of registration under Section 12AA of the Act. The application under Section 10(23C)(vi) of the Act was rejected vide order dated 31.10.2017. Appeal was preferred before the Tribunal, the same was allowed vide order dated 17.1.2019, hence the present appeal.

Before proceeding further, the aims and objects of the assessee are reproduced as under:

". . . to promote the quality and scope of education in Rural Area and manage the affairs of Sadhu Singh DAV, Rural Public School, Mukandpur; to work for social, Moral, intellectual upliftment of general public especially women; to provide for and make satisfactory transport arrangements for school and college girl students to general public especially; to collaborate with such government/NGO's working for the similar objectives of Rural Welfare; to create and build suitable infrastructure for children/wards of Punjabi settled abroad (NRIs) for their education in India; to acquire land, buildings and to make construction for the expansion of Sadhu Singh DAV, Rural Public School, Mukandpur; to raise funds and to collect

donations and to issue receipts for the same from the general public and its members in the form of cash and kind to be utilized for the fulfilment of the aims and objects."

Learned counsel for the revenue argues that the Tribunal erred in relying upon the decision of this Court in the case of the assessee for registration under Section 12AA of the Act. It is contended that the CIT (E) while rejecting the application apart from rejection of registration under Section 12AA of the Act relied upon the fact that one of the objects of the assessee was not solely for educational purpose.

From the perusal of the paper book, it is evident that one of the factor considered by the CIT (E) was denial of registration under Section 12AA of the Act. It would be pertinent to note here that while dealing with the issue of Section 12AA of the Act, the Tribunal dealt with the objection with regard to amassing capital fund and fixed assets. It was concluded that corpus created and the land and building was acquired out of donations, for setting up the school. Further, the point of fee receipt was also considered and it was held that the same was spent for running the school.

The only issue raised by learned counsel for the Revenue needs to be considered is that the object "to work for social, moral, intellectual upliftment of general public especially women" brings the object of the assessee out of the phrase "solely for educational purpose". The contention raised is not well founded. From the objects quoted above, it is forthcoming that the assessee was promoting quality education in the rural areas and managing the affairs of Sadhu Singh DAV, Rural Public School, Mukandpur. The object for upliftment of general public especially women is only with regard to its sole object of educational purpose only, as the intellectual upliftment of general public especially women can only envisage education and nothing else.

In view of the above discussion, no interference is called for in the conclusion arrived at by the Tribunal.

There is no merit, the appeal is dismissed.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

January 13, 2020
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No