IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-13-2019
Date of decision:- 30.01.2023

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

vs.

M/s Mahabir Educational Welfare Society ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Varun Issar, Jr. Standing counsel
for the appellant.

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Ritu Bahri, J. (Oral)

The present appeal has been filed under Section 260A of the Income Tax Act, 1961 (for short 'Act 1961') seeking quashing of order dated 12.06.2018 passed by Income Tax Tribunal, Division Benches 'B', Chandigarh.

Brief facts of the case are that an appeal was filed by the respondent-assessee against order dated 30.11.2017 of CIT (Exemptions), Chandigarh passed under Section 80 G (5) (vi) of Act 1961 , before the ITAT, Division Benches 'B', Chandigarh. The appeal was allowed on 12.06.2018 and hence the present appeal.

A bare perusal of impugned order shows that it is an admitted fact that the assessee-Trust has been granted 12AA Registration, which has not been revoked. The mere fact that the assessee Trust has never received donations earlier is not a relevant criteria. Further merely on the fact that the FDR's are being maintained by the Trust cannot be made a criteria to deny approval under Section 80G. These FDR's were maintained in order to get

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accreditation with the Regulatory authorities, which managed the professional colleges etc.

Reference at this stage can be made to judgment of this Court passed in ***ITA-54-2019 titled as The Commissioner of Income Tax (Exemptions), Chandigarh vs. M/s Shri Panchayati Gaushala Society, decided on 20.01.2020*** wherein similar issue was examined and in para No. 8, 9, 11 and 13, it has been observed as under:-

> "8. Section 12A of the Act provides conditions for applicability of Sections 11 and 12 of the Act. Section 12AA of the Act provides for procedure of registration for availing the benefits under Section 12A of the Act. Under Section 12AA(1)(a) of the Act the Principal Commissioner or the Commissioner in order to satisfy himself about the genuineness of the activities of the trust or institution can call for such document or information as he deems necessary. If satisfied about genuineness of object, he passes the order registering the trust or institution, otherwise rejects the application.
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> 9. Under Section 80G of the Act recognition is given to trust or institution for the purpose that assessee giving donations to such institution becomes entitled to claim deduction of the amount donated. Sub-section 5 of Section 80G of the Act stipulates the conditions for application of Section 80G of the Act to the donations made to any institution or fund referred to in sub clause (iv) of Clause (a) of Sub Section (2).
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> 11. The objection that the amount in FDRs had enhanced will not enhance the case of the revenue. There is not even an iota of evidence to establish that the amount was not being utilised for the aims and objects of the society but for some other purpose. The amount only gives a protection to the society for daily needs, if the occasion so arises that there is scarcity of funds as the society has almost 350 cows to take care and to feed. It cannot be ruled out that such a cushion may be required considering the nature of the work done by the society
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> 13. There is no quibble on the proposition that registration under Section 12AA of the Act itself would not be

> enough for approval under Section 80G of the Act. The Tribunal has only considered that aims and objects of the society have been found genuine while granting registration under Section 12AA of the Act and for granting approval under Section 80G of the Act, the reasons have been recorded and the denial of approval not sustained. Learned counsel for the revenue has neither been able to show that the view taken by the Tribunal is erroneous nor any material on record is shown to hold that the order of the Tribunal is legally unsustainable."

Learned counsel for the appellant has not been able to cite any law contrary to the above.

The present appeal is thus dismissed.

(RITU BAHRI)
JUDGE

30.01.2023
G Arora

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No