

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**ITA No.130 of 2013 (O&M)
Date of decision: 28.2.2014**

Commissioner of Income Tax I, Ludhiana

.....Appellant

Vs.

**Global Educational Society, 34, 2nd floor, City Plaza Chauri Sarak,
Ludhiana (PAN: AAAAG7590A).**

.....Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Rajesh Katoch, Advocate for the appellant.

Mr. Pankaj Jain, Sr. Advocate with Ms.Divya Suri &
Mr. Devinder Kumar, Advocates for the respondent.

Ajay Kumar Mittal,J.

1. This appeal has been preferred by the revenue under section 260A of the Income Tax Act, 1961(in short, "the Act") against the order dated 27.11.2012, Annexure A.II, passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'A', Chandigarh (in short, "the Tribunal") in ITA No.646/CHD/2011, claiming following substantial questions of law:-

“i)Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal was justified in allowing registration under Section 12A to the assessee when all the objects except for Object No.(i) fall under any other object of public utility?

ii)Whether on the facts and in law, the Hon'ble Income tax Appellate Tribunal was justified in allowing registration under section 12A inspite of the fact that the CIT-1, Ludhiana has

observed that some of the objects of the applicant society are distributive in nature and not charitable?

iii) Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal was justified in holding that dissolution clause has been met with by the assessee whereas as per dissolution clause, it has not been mentioned that after meeting the liabilities, the property left would be handed over to a charitable institution pursuing the same objects?"

2. A few facts relevant for the decision of the controversy involved, as narrated in the appeal, may be noticed. The appellant society filed an application under Section 12A of the Act in Form No.10A on 29.10.2010 for registration of the trust under section 12AA of the Act. It was established on 1.10.2009 and started polytechnic college, namely Ludhiana Polytechnic at Village and PO Kube, near Nillon Bridge, Ludhiana. The Commissioner of Income Tax, Ludhiana (CIT) issued show cause notice to the assessee. It was noticed that besides the objects of education, some of the objects were distributive and were not related to the objects of education. After considering the matter, the Commissioner of Income Tax-I, Ludhiana (CIT) refused to grant registration to the assessee trust under Section 12AA(1)(b) (ii) of the Act vide order dated 28.4.2011, Annexure A.1. Aggrieved by the order, the assessee filed appeal before the Tribunal. Vide order dated 27.11.2012, Annexure A.II, the Tribunal allowed the appeal and the CIT was directed to pass consequential order of registration under section 12AA of the Act to the assessee. Hence the instant appeal by the revenue.

3. We have heard learned counsel for the parties and perused the

record.

4. The solitary question that arises for consideration is whether the CIT had rightly declined registration under Section 12AA of the Act by holding that the objects of the assessee were not of education and thus charitable in nature. It was urged that all the objects mentioned by the assessee in the trust deed were not of charitable nature.

5. The Tribunal while accepting the appeal of the assessee vide order dated 27.11.2012, Annexure A.II had noticed as under:-

“11. Applying the above said ratio to the facts of the present case we find that the assessee trust was registered on 1.10.2009 and the certificate of registration of societies is placed at page 2 of the Paper Book. The copy of Memorandum and Article of Association and Rules and Regulations of the society are placed at pages 24 to 29 of the Paper Book. As per clause 4(a) the first object of the assessee society is to promote dental education and as per clause 4(b) the assessee is to establish and to promote establishment of or to render aid to school, college, educational institutions, etc. i.e. Clauses 4(c) to 4(r) are ancillary to the main objects of the assessee trust. The same is evident from the perusal of the Balance Sheet placed at page 7 of the Paper Book for the year ending 31.3.2010 where the assessee had shown investment in land and building out of the funds raised by it. The assessee applied for registration under Section 12A of the Act in the first year of its formation. Admittedly, the assessee is carrying on the objects of providing education which is recognized as charitable purpose under Section 2(15) of the Act. The assessee claims that it is carrying on object of education by way of establishing dental college. In view of the above said facts we find no merit in the order of the Commissioner of Income Tax in rejecting the registration under Section 12AA

of the Act observing that except for object No.(i), all other objects fall under any other object of public utility. In view of the ratio laid down by the Hon'ble Punjab and Haryana High Court in *CIT, Bhatinda v. Baba Deep Singh Educational Society, Bhatinda* (supra) [ITA No.881 of 2010 dated 13.10.2011], the power of the Commissioner of Income tax while granting registration is to look into the object of the society and come to a satisfaction in respect of the genuineness of the activities of the trust. In the facts of the present case where admittedly the assessee is running dental college and activities were by way of constructing the building for establishing the dental college to provide education and consequently the assessee is entitled to the grant of registration under Section 12AA of the Act. In view thereof, we hold that where the objects of the trust were genuine i.e. of providing education and the activities undertaken by it were also genuine as it had started constructing the building in which such dental college has to be established, the claim of the assessee for grant of registration under Section 12AA of the Act for carrying on the objects of running the educational institute is thus allowed. Further objection of dissolution clause has also been met with by the assessee. The Commissioner of Income tax shall thus pass consequential order of registration under Section 12AA of the Act to the assessee society. The plea of the Revenue that it was engaged in other objects being distributive and not charitable is premature as no such objects carried on by the assessee had been brought to our notice. The grounds of appeal raised by the assessee are allowed.”

6. The objects mentioned by the assessee were thoroughly examined by the Tribunal and it came to the conclusion that the same were genuine i.e of providing education. It was also noticed that the assessee was

running Dental College and activities were by way of constructing the building for establishing the Dental College. The said findings have not been shown to be perverse or erroneous in any manner. The CIT was, thus, not right in declining registration under Section 12AA of the Act to the assessee.

6. In view of the above, no substantial question of law arises in the appeal and the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

February 28, 2014
'gs'

(Amol Rattan Singh)
Judge