HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Income Tax Appeal No. 170/2018

Commissioner Of Income Tax-Exemption, Jaipur, Jaipur

----Appellant

Versus

Anesthesia Society, Jawahar Nagar, Meera Marg. Sri Ganganagar.

----Respondent

For Appellant(s) : Mr. K.K.Bissa
For Respondent(s) :

HON'BLE MR. JUSTICE SANGEET LODHA
HON'BLE MR. JUSTICE DINESH MEHTA

Judgment

04/12/2018

1. This appeal preferred under Section 260A of Income Tax Act, 1961 (for short "the Act") is directed against order dated 6.3.18 of the Income Tax Appellate Tribunal (ITAT), Jodhpur Bench, Jodhpur, passed in ITA No.455/Jodh./2017, whereby an appeal preferred by the respondent assessee against the order dated 9.10.17 passed by the Commissioner of Income Tax (CIT) (Exemption), rejecting the application of the assessee under Section 12A of the Act, has been allowed and accordingly, CIT (Exemption) has been directed to grant registration to the assessee under Section 12A of the Act.

2. Precisely, the contention of the appellant is that the assessee society has been constituted for the benefit of only one branch of medicine i.e. Anaesthesia and not for the purpose of benefitting the entire medical fraternity and therefore, the benefit of registration under Section 12A was rightly denied to the assessee

society by the CIT (Exemption) and thus, the ITAT has erred in law in extending benefit of registration under Section 12A to the assessee society.

3. The learned ITAT opined that the society might be catering to only one particular branch of doctors, but it is not the case of the department that the benefit will be accruing to specified individuals rather, all the doctors practising Anaesthesia within the district of Sriganganagar and Hanumangarh will stand benefited by the activities of the society. Relying upon a decision of the Hon'ble Supreme Court in the matter of '*Ahmedabad Rana Caste Association vs. CIT',* (1971) 82 ITR 704 and a Bench decision of this court in '*CIT vs. Jodhpur Chartered Accountants Society',* 258 ITR 548 (Raj.), the ITAT held that the assessee society is eligible for the benefit of registration under Section 12A of the Act.

4. In *Ahmedabad Rana Caste Association's* case (supra), the Supreme Court while dealing with the issue as to whether an object of the public trust beneficial to a section of a public is an object of general public utility, observed:-

> " It is well settled by now and the High Court also has rightly taken that view that an object beneficial to a section of the public is an object of general public utility. To serve a charitable purpose it is not necessary that the object should be to benefit the whole of mankind or all persons in a particular country or State. It is sufficient if the intention to benefit a section of the public as distinguished from a specified individual is present. This court in *Commissioner of Income-tax v. Andhra Chamber of Commerce* overruled the view of Beaumont C.J. in *Commissioner of Income-tax v. Grain Merchants' Association* of Bombay on the point. It was, however, be sufficiently defined and identifiable by some common quality of a public or impersonal nature. Where there was no common quality uniting the potential beneficiaries into a class the trust might not be regarded as valid. …..xxxxxx……."
>
> We may usefully refer to the judgment of Lord Greene M.R. in *In re Complon: Powell v. Complon.* The

> Master of the Rolls declared that no definition of what was meant by "a section of the public" had, so far as he was aware, been laid down. But he indicated that the trust of a public character is one in which the beneficiaries do not enjoy the benefit when they receive it by virtue of their character as individuals but by virtue of their membership of a specified class, the common quality uniting potential beneficiaries into the class being essentially an impersonal one." (Emphasis supplied)

5. In *Jodhpur Chartered Accountants Society's case* (supra), a Bench of this court while dealing with the question as to whether the assessee association constituted to educate the members of the profession on the subject of auditing, accounting, direct or indirect taxes by holding seminars, conferences and workshops etc. falls within the purview of Section 2(15) of the Act so as to make it entitle to registration under Section 12A of the Act, relying upon inter alia the decision of Supreme Court in *Ahmedabad Rana Caste Association's* case (supra), observed that the predominant object of the society is dissemination of knowledge and education of commercial law, tax laws for the benefit of general public to inculcate a sense of responsibility towards the nation and foster law abiding citizen. The court further observed that it appears that the society is not for the benefit of small group of individuals and it is also not only for the benefit of members but to promote awareness and education of commercial and tax law for general public without any profit motive. The court opined that in the situation of explosion in population, the vast changes brought by the scientific technology and other developments, more particularly, the universal concept of globalisation, new trends in the world order to meet the ever growing challenges to organising seminars, conferences and

workshops to educate the people of commercial laws, tax laws, auditing, accounting, direct and indirect taxes are of great general public utility, at least to a section of people falling in the category of charitable institution.

6. In the backdrop of position of law settled by the Apex Court and this court as aforesaid, adverting to the facts of the present case, indisputably, the assessee society has been constituted to bring the doctors dealing in Anaesthesia speciality entitled to be registered with the Medical Council of India together for the purpose of inter alia the development of medical science, publication of research magazine, to promote the research and practical work and to organise the seminars etc. Thus, in the considered opinion of this court, merely because the society is primarily created for the benefit and convenience of Anesthetists, it cannot be said that the object of the society is confined to its members practising in Sriganganagar and Hanumangarh Districts. Obviously, the education programme and research work to be undertaken by the assessee society in larger perspective are going to benefit the public at large and therefore, the activities of the assessee society do fall within purview of general public utility so as to make it entitled for registration under Section 12A of the Act.

7. For the aforementioned reasons, we are firmly of the view that the issue involved in the present appeal stands squarely covered by decision of the Apex Court in *Ahmedabad Rana Caste Association*'s case and decision of this court in *Jodhpur Chartered Accountants Society's* case (supra) in favour of the assessee

society and thus, no substantial question of law arises for consideration of this court in the present appeal.

8. Accordingly, the appeal is dismissed in limine.

(DINESH MEHTA),J **(SANGEET LODHA),J**

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