

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B", HYDERABAD

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER  
(Through Virtual Hearing)

ITA Nos.2199 & 2200/Hyd/2018		
Assessment Year: 2014-15		
NNF – State Chapter, Hyderabad. PAN: AAATN 9497 Q (Appellant)	Vs.	Commissioner of Income Tax (Exemptions), Hyderabad. (Respondent)
Assessee by:	Shri M.V. Anil Kumar	
Revenue by:	Shri P. Soma Sekhar Reddy, DR	
Date of hearing:	15/09/2020	
Date of pronouncement:	17/09/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

Both these appeals are filed by the assessee against the orders of the Ld. CIT (Exemptions), Hyderabad in F. No. CIT(E)/Hyd/ITAT/12A & 80G/23/2017-18, dated 17/06/2017 passed U/s. 12AA & 80G of the Act with respect to the application filed by the assessee in Form-10A and Form No. 10G on 29/03/2014 seeking registration U/s. 12AA of the Act and recognition U/s 80G of the Act.

2. On perusing both the appeals, we find that the appeal No. 2200/H/2018 is a duplicate appeal filed against the same order of the Ld. CIT (E) cited supra. Therefore, this appeal of the assessee stands dismissed and we take up the appeal No. 2199/H/2018 for adjudication.

3. At the outset, Ld. AR submitted before us that there is a delay of 11 days in filing the appeal before the Tribunal. In this regard, Ld. AR brought our attention towards the affidavit filed by the assessee as well as the affidavit of the Ld. Counsel for the assessee seeking condonation of delay wherein the reason for not filing the appeal within the prescribed time limit was explained. For reference, the relevant portions from the affidavit is extracted herein below:-

*“I, M.V. Anil Kumar S/o. M.V. Subba Rao, Advocate, C/o. M. Anandam & Co., Chartered Accountants, 7A, Surya Towers, Secunderabad, do hereby affirm and state on oath that:*

.....

.....

3. *As I was busy with filing of income tax returns and tax audit during that period, I forgot to inform the client of the receipt of the order.*
4. *I have sent the Form 36 along with the petition for condonation of delay and affidavit for signature of the President of the NNF State Chapter on 19/11/2018.*
5. *The Signed copies have been received on 20/11/2018 and we have filed the same now. As a result, there is a delay of 11 days.*
6. *I pray that the delay of 11 days in filing the above appeal may kindly be condoned and the appeals be admitted.”*

4. After hearing the submissions of the Ld. AR and on perusal of the affidavit filed by the assessee and its Counsel explaining the reasons for the delay in filing the appeal before the Tribunal, We are of the view that the delay in filing appeal is not attributable to the assessee, hence taking a lenient view in the interest of justice, We hereby condone the delay of 11 days in the filing the appeal before the Tribunal and proceed to dispose off the appeal on merits.

5. The assessee has raised seven grounds in its appeal however, the cruxes of the issues are that the Ld. CIT (E), Hyderabad has erred in rejecting the application in Form No. 10 A & Form No. 10G of the Rules for granting registration U/s. 12AA of the Act and recognition U/s. 80G of the Act by holding that the objective of the assessee's Society cannot be said to a charity in nature as provided U/s. 2(15) of the Act.

6. The brief facts of the case are that the assessee Society filed an application in Form 10A and Form No. 10G on 29/03/2014 seeking registration U/s. 12AA and recognition U/s. 80G of the Act. However, the application was rejected by the Ld. DIT (E) vide order in F.No.DIT(E)/HYD/12A & 80G/77(03)13-14, dated 11/09/2016. On appeal, the Tribunal remitted the matter back to the file of Ld. DIT (E) to decide the matter afresh. Thereafter, the Ld. CIT (E) after examining the audited financial statements of the assessee for the AY 2016-17 and other relevant documents, rejected the applications of the assessee because of the following reasons:-

- (i) The object of the assessee clearly indicates that it is established mainly for the advancement of the science related to Neonatology which is predominantly useful for the development of scientific skills amongst Doctors.
- (ii) Scholarships and Fellowships extended by the assessee was to encourage research scholars who are only Doctors.
- (iii) Promoting and conducting conferences, Lectures, meetings, seminars etc., was only meant to enrich the knowledge amongst the Doctors community.

- (iv) Predominantly all the Members of the Society are Doctors.
- (v) The P & L Account for the AY 2016-17 indicates that only conferences were organized during the period.

7. With the above observations, the Ld. CIT (E) opined that since the assessee Society was benefiting only the Doctors community, it cannot be treated as an entity imparting charitable activity. Therefore, the Ld. CIT (E), rejected the applications of the assessee for granting registration U/s. 12AA and recognition U/s 80G of the Act.

8. At the outset, the Ld. AR referred to the paper book filed by the assessee which contain the Memorandum along with Rules & Regulations of the assessee Society and pointed out to the aims and objects of the assessee society and argued stating that the objects of the society was with respect to General Public utility as defined U/s. 2(15) of the Act. It was therefore pleaded that the Ld. CIT (E) may be directed to grant registration U/s. 12AA of the Act. The Ld. AR also relied on the decision rendered by the Hon'ble Rajasthan High Court in the cases, CIT (E) vs. Anesthesia Society reported in 101 Taxmann.com 227 (2019) and the decision in the case of CIT vs. Jodhpur Chartered Accountant Society reported in 258 ITR 548 to justify his stand. The Ld. DR on the other hand argued in support of the order of the Ld. CIT (E) and requested for confirming his order.

9. We have heard the rival submissions and carefully perused the materials on record. For reference, the aims and objectives of the assessee society are extracted herein below:-

“3. AIMS & OBJECTIVES:

1. To encourage and advance the knowledge, study and practice of the science of Neonatology in all possible ways.
2. To provide facilities to scholars and for the study for research in Neonatology in any of its aspects by way of scholarships, fellowships, grants and endowments etc.
3. To organise conferences, lectures, meetings, seminars, exhibitions for the promotion of its objectives.
4. To co-operate and affiliate with other bodies and also to engage in such other forms of activities as may be decided upon by the society from time to time for the purpose of carrying out all other or any of the objectives of the society.
5. To do all such other things as may be necessary, incidental, conducive or convenient to the attainment of the above objectives or any of them.
6. All income of the society shall be utilised towards the promotion of aims and objectives of the society.”

10. From the above, it is apparent that though the objectives of the assessee society is to encourage knowledge in a particular field of Science. Such knowledge is beneficial to the general public. Therefore, it is obvious that the object of the assessee society falls under the limb “objects of general public utility” as enshrined U/s. 2(15) of the Act. Further, the reliance placed by the assessee in the decisions of the Hon’ble Rajasthan High Court supports the case of the assessee. The gist of the decisions are extracted herein below for reference:-

**Hon’ble Rajasthan High Court in the case, CIT (E) vs. Anesthesia Society reported in 101 Taxmann.com 227 (2019) has held as under:**

1. ....
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 Sriganagar 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 v. CIT [1971] 82 ITR 704 and a Bench decision of this court in CIT v. Jodhpur Chartered Accountants Society [2003] 127 Taxman 90/[2002] 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 Compton: Powell v. Compton. 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, advertent 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."*

**(ii) In the case of CIT vs. Jodhpur Chartered Accountant Society reported in 258 ITR 548 the Hon'ble Rajasthan High Court has held as under:-**

*On perusal of sections 11 and 12A, it is evident that at the stage of filing an application for registration, the Commissioner is required to examine whether the application is made in accordance with requirements of section 12A read with relevant rules. The Commissioner is further required to examine whether the objects of the trust or society are charitable or not. The expression 'charitable purpose' under section 2(15) has been defined by way of inclusive definition and includes (a) relief of the poor, or (b) education, or (c) medical relief, or (d) advancement of any other object of general public utility. In order that a purpose may qualify for being regarded as an object of general public utility, it must be intended to benefit a section of public as distinguished from specified individuals. The decision of the Apex Court in Ahmedabad Rana Caste Association v. CIT [1971] 82 ITR 704 provides sufficient binding guideline to resolve the controversy involved in the instant case. The observations of the Supreme Court make the position clear with respect to benefit to a section of public and specified individuals. Applying the test laid down by the Apex Court in Ahmedabad Rana Caste Association's case (supra), it was found that the predominant object of the assessee-society was dissemination of knowledge and education of commercial laws, tax laws for the benefit of general public to inculcate a sense of responsibility towards the nation and foster law abiding citizens. The object clause of constitution emphasized to propagate and disseminate knowledge about the auditing, accounting, direct and indirect taxes by holding seminars, conferences and workshops, etc. The fruits of seminars, conferences, etc., were available to public at large; thus, assessee-society was not for the benefit of a small group of individuals and it was also not for the benefit of members but to promote awareness and education of the commercial and tax laws for the general public without any profit motive. In the situation of explosion in population, the vast changes brought by the scientific technology and other developments, the universal concept of globalisation, new trends in the world in order to meet the ever growing challenges to organise seminar, conferences and workshops to educate the people of commercial laws, tax laws, auditing, accounting, direct and indirect taxes are of general public utility to a section of people falling in the category of charitable institution. Accordingly, the Tribunal was justified in directing the Commissioner to grant registration to the assessee-society as a charitable society."*

11. Considering the facts and circumstances of the case and the decision of the Hon'ble Rajasthan High Court cited supra, we are of the view that the assessee is entitled for registration U/s. 12AA of the Act. Therefore, we hereby direct the Ld. CIT (E) to grant registration U/s. 12AA of the Act. Further, on perusing the facts of the case, we do not find that the assessee has violated any of the provisions stipulated U/s. 80G(5) of the Act. Therefore, we also hereby direct the Ld. CIT (E) to grant recognition to the assessee U/s. 80G of the Act.

12. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on 17<sup>th</sup> September, 2020.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 17<sup>th</sup> September, 2020.

*OKK*

Copy to:-

1.	NNF State Chapter, C/o. M. Anandam & Co., Chartered Accountants, Flat No. 7A, Surya Towers, S.P. Road.
2.	Commissioner of Income Tax (Exemptions), Aayakar Bhavan, Basheerbagh, Hyderabad.
3.	DIT (Exemptions), Hyderabad.
4.	The Departmental Representative, ITAT, Hyderabad.
5.	Guard File.