

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी” चण्डीगढ़

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH ‘B’, CHANDIGARH**

**BEFORE: SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND SHRI R.L. NEGI, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No.98/Chd/2020

निर्धारण वर्ष / Assessment Year : 2015-16

M/s Mukat Educational Trust, 8-B, Model Town, Patiala.	बनाम	The D.C.I.T. , Circle-1(Exemptions), Chandigarh.
स्थायी लेखा सं./PAN NO: AAATM4249D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, CA
राजस्व की ओर से/ Revenue by : Shri Ashok Khanna, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 24.08.2021
उद्घोषणा की तारीख/Date of Pronouncement: 25.08.2021

(Hearing through webex)

आदेश/Order

Per Annapurna Gupta, Accountant Member:

The above appeal has been preferred by the assessee against the order of the Commissioner of Income Tax (Appeals)-, Patiala dated 29.11.2019 relating to assessment year 2015-16 passed u/s 250(6)) of the Income Tax Act, 1961 (hereinafter referred to as ‘Act’.

2. The solitary issue in the present appeal relates to denial of exemption u/s 11 of the Act to the assessee trust on account of income found to have been applied for the benefit of the related persons, as per the provisions of section 13(1)(c) read with section 13(3) of the Act. The AO found the salary paid to two trustees to be not commensurate with the services rendered by them and accordingly, made disallowance of the same as under:

Ms.Mandeep Ahluwalia Pahwa	= Rs.9,00,000/-
M/s Sandeep Kaur Ahluwalia	= Rs.6,00,000/-

3. While the salary being paid to Ms.Mandeep Ahluwalia Pahwa was Rs.15 lacs, the AO found the same to be excessive to the extent of Rs.9 lacs and disallowed the same, while in the case of Ms. Sandeep Kaur Ahluwalia the entire salary paid of Rs.6 lacs to her was disallowed, thus amounting in denial of exemption u/s 11 of the Act by applying the provisions of section 13(1)(c) of the Act, in all to Rs.15 lacs. The same was upheld by the Ld. CIT(A) on account of lack of evidence demonstrating services rendered by the said trustees.

4. We have heard both the parties. Admittedly, Ms.Mandeep Ahluwalia Pahwa is the President of the trust, while

Ms.Sandeep Kaur Ahluwalia is the Chairperson of the trust. That both of them are highly qualified has not been disputed by the Revenue. Their qualifications as submitted to the Revenue Authorities below and which has not been contradicted by the Revenue is as under:

Mrs. Mandeep Ahluwalia

Mrs. Mandeep Ahluwalia Pahwa is a highly educated Trustee of Mukat Educational Trust with B.Com Honours from NarseeMonjeeCollege(1995), University of Mumbai and MBA -- Finance from University of Manchester (U.K)(1995- 1997) with Specialization in Finance from Vanderbilt University, Tennessee, USA. Further she is certified for Global Entrepreneurs hip Programme from Columbia Business School.

Mrs. Sandeep Kaur Ahluwalia, Chairperson Mukat Educational Trust

Mrs. Sandeep Kaur Ahluwalia, Chairperson Mukat Educational Trust is a Post Graduate in History from Govt. Mohindra College, Patiala. Being a very brilliant student she did her education with an excellent record and did her post graduation at the age of 20 years. Thereafter, she started her carrier as a Lecturer with Govt. of Punjab at Govt. Women's College, Patiala. This job she resigned after her marriage.

5. That both of them inherited this position in the trust on the passing away of their respective fathers who were the founder trustees and chairman of the trust. In the case of Ms.Mandeep Ahluwalia Pahwa on the passing way of her father Shri Rajinder Singh Ahluwalia in 2004 and in the case of Ms.Sandeep Kaur Ahluwalia on the passing away of her father Shri Gurcharan Singh in 1997. It is also not denied that since

then the assessee trust has progressed from strength to strength, having 3300 students and 220 teaching and non-teaching staff at present as compared to 1000 students in 2004 when Ms.Mandeep Ahluwalia Pahwa took over and much less when Ms.Sandeep Kaur Ahluwalia took over in 1997 and also the fact that new blocks were constructed in the school and new educational colleges were started in 2006 at Rajpura in the name of Shri Rajinder Singh Memorial College of Education. That Ms.Sandeep Kaur Ahluwalia was an educationist having worked as a lecturer earlier in Government Women College, Patiala, is also not denied.

6. In this background of facts where the current trustees had stepped in the shoes of their founder trustee fathers and took the trust from strength to strength since then, on the strength of their highly educated background and work experience, the finding of the Revenue that the fact of their having rendered services needed to be established with documentary evidences, we cannot agree with. The circumstantial and surrounding evidence as has been discussed above by us are sufficient to demonstrate that it is on account of their role as President and Chairman of the trust and with their educational background and experience the trust has gone to strength to strength. There is no denial

that the overall management of the trust rests with the trustees, Chairman and President of the trust, it is definitely not left to the employees who are employed to carry out day-to-day duties and the fact that the trust has advanced in the past years since the two trustees took over, clearly demonstrates the amount of work and involvement of two trustees in the trust. Therefore, finding of the Revenue that in the absence of any evidence demonstrating that the trustees had rendered services to the trust, the salary paid to them has tantamounted to undue benefit being given to them, we find is not in consonance with the facts of the case and is rejected.

7. Moreover we find that the basis adopted by the Revenue authorities for quantifying the undue benefit given to the aforesaid trustees, by comparing with the salary paid to employees of the trust i.e. the members and other working staff, is unreasonable. The quality of work rendered by the management of the trust on one hand, which includes the two trustees, and that by the employees of the trust, who are involved only in execution of the decisions taken by the management and other day-to-day activities, is totally different and there can be no comparison between the two. Therefore, the basis adopted for determining the undue benefit to the two trustees is also not found to be correct.

8. In view of the above, we hold that there is no basis for holding that Rs.15 lacs of salary paid to the trustees was by way of undue benefit given to them and the denial of exemption u/s 11 of the Act to the said extent/amount of Rs.15 lacs is, therefore, set aside.

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

Order pronounced on 25th August, 2021.

Sd/-

(R.L. NEGI)

न्यायकि सदस्य/Judicial Member

Sd/-

(ANNAPURNA GUPTA)

लेखा सदस्य/Accountant Member

Dated: 25th August, 2021

रती

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
- गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar

