

**INCOME TAX APPELLATE TRIBUNAL  
[DELHI BENCH "B": NEW DELHI]**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(Through Video Conferencing)**

ITA. No. 5996 Del 2017  
(Assessment Year: 2017 – 18)

|                                                                                                                 |     |                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------|
| Shri Baba Balakpuri<br>Dharmarath Aushadhalaya<br>Trust<br>circular Road<br>Rohtak<br>Haryana<br>Pan AAOTS1689R | Vs. | COMMISSIONER OF<br>INCOME TAX (EXEMPTION)<br>CR building<br>fifth floor<br>sector 17 – E<br>Chandigarh |
| (Appellant)                                                                                                     |     | (Respondent)                                                                                           |

|                         |                                                |
|-------------------------|------------------------------------------------|
| Assessee by :           | Shri Naveen Kumar Goel<br>chartered accountant |
| Department by :         | Shri JK Mishra CIT DR                          |
| Date of Hearing :       | 30/09/2021                                     |
| Date of pronouncement : | 03/11/2021                                     |

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

- 01 This appeal is filed by the assessee trust against the order passed u/s 12 AA of the income tax act, 1961 on 31<sup>st</sup> of August 2017 by the CIT (Exemption), Chandigarh.
- 02 The assessee has raised the following grounds of appeal:-
- i. The learned CIT (E) has erred in law and on facts in rejecting the application u/s 12 A of the income tax act, 1961.

- ii. That the rejection order passed u/s 12 AA of the act is against the law and to the facts of the case
  - iii. That the learned CIT (exemption) erred in law for not appreciating that the appellant society doing charitable activities and fulfill the conditions laid down u/s 2 (15) of the act.
  - iv. That the learned CIT (E) has erred in law and on the facts in not following the binding judgments of the Honourable Apex court and jurisdictional High Court on similar facts.
- 03 The brief facts of the case shows that the assessee trust has the aims and objects to serve the society to provide medicine in Aushadhalaya, to promote education, to open dispensaries, college and technical education institutes for propagation of education, to provide books and scholarships to poor and needy students, to work for promotion of sports and to alienate dowry system from society. The assessee applied for registration u/s 12 A of The Income Tax Act by filing form number 10 A on 14/2/2017. The trust is in operation since 29/4/2013.
- 04 The learned CIT – E raised certain inquiries, which was replied on 8/8/2017. Further queries were raised by the letter dated 24/8/2017, which was replied on 26/8/2017.
- 05 The assessee submitted that it does not own any land and building but has building under construction amounting to ₹ 1,136,484/- the learned CIT E asked that how it is possible to run Goushala, Dental laboratory and Aushadhalaya in absence of any building. Assessee submitted that that the land and building are owned by Baba Kanakpuri and it has been given to the trust without any lease/rent for us it for charitable purposes. The learned CIT E held that in absence of any ownership of the land remains unverified. With respect to the construction activity, it was submitted that the construction has been started of the Satsang Bhavan with corpus donations. It was claimed that this activity is also covered Under Section 2 (15) of the IT act. The learned CIT E also stated that the details regarding the corpus donation and the copy of specific

written direction were not provided. Assessee also submitted the bank statement wherein the amounts have been transferred from account of Mr. Sureinder Sukhija to the trust account. The learned CIT E also raised the question that during demonetization period a sum of ₹ 739,000/- has been deposited in cash whereas in earlier months the assessee has deposited merely a sum of ₹ 240,400. The assessee also submitted that it has an ambulance amounting to ₹ 66,400/- , the learned CIT – E asked that how the maintenance on the same is much higher every year. Assessee also submitted the pictures in support of its activities along with Jan Seva Samiti. The learned CIT – E questioned that how the activities have been done by the trust. CIT E also asked the need of a motor car in Aushadhalaya. With respect to the motor car, the assessee submitted that it is used for the charitable activities for organizing Satsang meetings, the learned CIT – E held that assessee is claiming deduction of insurance and depreciation simultaneously and it is utilized for personal purposes of the trustee and therefore it will not enure to the benefit of public. The learned CIT – E also held that a sum of ₹ 6,700,032/- has been debited from the bank but receipt and payment account reveals that the total payment of ₹ 5,211,607/- were made during that financial year 2016-17. Therefore, it was clear that complete financial transactions are not being revealed. He further held that the pictures submitted by the assessee revealed the activities carried out by the assessee through some “Jan Seva Samiti” and therefore these activities are carried out by some other entity. Therefore, he held that the activities of the trust are not genuine and further the financial transactions are not transparent in absence of any concrete reply from the applicant’s activities of the trust. Therefore, he held that the activities of the trust could not be termed to be falling within the realm of charitable purposes. He further held that the applicant has not been able to prove pursuance of its objects and the genuineness thereof. Thus, he rejected the application of the assessee for registration u/s 12

AA of the act by passing the impugned order. The appellant applicant trust is aggrieved with that and has preferred this appeal.

- 06 The learned authorised representative submitted that assessee is constructing a Satsang Bhavan on the land, which is owned by Baba Karanpuri. This land is given by the trustee for the use of the charitable activities of the trust. It was further stated that there is complete details available by submitting the balance sheet etc where the said satsang Bhavan is under construction and it is financed through the corpus donation. The assessee trust is in existence since 29/4/2013 and has submitted the complete details by submitting the annual accounts. It was further stated that the donation has been shown under the head corpus donation. The accounts are audited. The learned CIT – E has noted that assessee is running Gaushala and dental laboratory and Aushadhalay. The ambulance that is being used for the various medical activities of the trust. There is an expenditure on repairs and maintenance, which are recorded in the books of accounts of the trust, and it are supported with the evidence. The assessee has submitted the complete bank account of the assessee where the inflow and outflow is demonstrated. The amount deposited in the bank account of the trust posted demonetization is the genuine amount of the receipt and even otherwise, the trust was not entitled to receive old notes as per demonetization policy. Complete details of receipts and payment of the entity for the last three years was furnished before the authority. He further submitted that motor car is being used for the purposes of Satsang Meeting at various places through which the donation is solely seated on behalf of the trust. The insurance expenses are duly supported by the insurance policy and respective payment of premium. Further, the depreciation claimed by the assessee is allowable as per law. The motor car is also shown in the fixed assets of the trust in the annual accounts. With respect to the difference that is stated in the sum credited in the bank account and the sum of income shown in receipt as

per receipt and payment account for FY 2016-17, he submitted that there is no difference between the sum. With respect to the activities of Jan Sewa Samiti, he submitted that these activities of the charitable trusts are being carried out along with Jan Seva Samiti and therefore the activities are of the trust itself. He further referred to the provisions of the act and stated that at the time of registration u/s 12 AA of the act the activities of the trust has been examined and those activities are of charitable nature. He submitted that merely because some infirmities are pointed out which does not exist at all, it cannot be said that the activities of the trust are not charitable in nature. He further submitted that if the trust is granted registration u/s 12 AA of the act than at the time of assessment of the trust whether the assessee has spent money on charitable activities or not can be examined at the time of allowing benefit of Section 11 – 13 of the act. He therefore submitted that the learned CIT – E has not given a single instance where the activities of the trust cannot be said to be charitable in nature. Therefore, the trust should be allowed registration u/s 12AA of the act. The learned that AR also referred to the paper book filed by him and also relied upon several judgments placed therein. He also referred to several communications and replies of the assessee submitted before the learned CIT E.

- 07 The learned CIT DR vehemently supported the order of the learned CIT – E and submitted that there are certain infirmities pointed out by the registering authority and therefore the trust is denied registration u/s 12AA correctly. He extensively referred to paragraph number 7 of the order.
- 08 We have carefully considered the rival contention and perused the order of the learned and CIT – E passed on 31/8/2017 rejecting the application for registration u/s 12AA of the act of the trust. We have also considered the paper book filed by the learned authorised representative as well as several judicial precedents relied upon. The facts clearly shows that that assessee is a trust which is running (1) Dharmarath Aushadhalaya (2)

Guashala (3) Bhandara (4) Satsang (5) Bhakti Lectures . Assessee has also started constructing Satsang Bhavan . land & building sheds are owned by the trustee namely Baba Karanpuri Ji and same has been given to the trust without any lease rent for the use of charitable purposes. Building on the land is constructed by the Trust during the year 2016-17 out of corpus donation fund, to run its activities. That the gaushala and dharmarth ausdhalaya being run on the old building owned by the trustee. Ambulance has been purchased for a value of Rs 375400/- out of grant from the Haryana Govt received for Rs 3.09,000 and balance paid by the trust Rs 66,400/-. So in the balance sheet ambulance value has been shown at Rs 66,400/- . Ambulance being used for charitable purpose for providing services to the needy patients in time. That Income and expenditure both for the running of Ambulance has been accounted for and duly shown in Receipt & payment accounts. Further cash deposit during demonetization only Rs 739,000/- out of opening of Dharmarth Gulaks kept at Gaushala , Mandir, Dharmarth Aushdhalaya and Satsang place and from the regular receipts from running of charitable activities. Car has been purchased during the year 2016-17 by the trust. That car is being used for the purpose of running the trust and achieving the objects of trust more efficiently & effectively. That mahant of dera has to go in various satsang , meetings for donation on behalf of the trust. Appellant assessee trust time to time also participates in charitable activities along with other charitable institutions and that programme were organized along with Jen Sewa Sansthan. The snapshot of the activities of the trust carrying on the charitable activities could be seen from the receipt and payment account submitted before us for last three years:-

| serial number | Nature of income | 2015             | 2016 | 2017 |
|---------------|------------------|------------------|------|------|
|               |                  | Amount in rupees |      |      |

|    |                             |          |           |          |
|----|-----------------------------|----------|-----------|----------|
| 1  | Donation                    | 8,85,095 | 18,01,500 | Nil      |
| 2  | Laboratory income           | 2,00,226 | 5,14,050  | 7,61,000 |
| 3  | Outdoor patient income      | 1,30,623 | 1,34,815  | 1,80,000 |
| 4  | Ambulance income            | 2,02,380 | 2,78,790  | 2,37,740 |
| 5  | Ambulance grant             | 3,09,000 | Nil       | Nil      |
| 6  | Membership fees             | 50,000   | 50,000    | 50,000   |
| 7  | Dental income               | Nil      | 1,81,740  | 1,27,235 |
| 8  | X-ray income                | Nil      | 12,600    | 55,780   |
| 9  | Physiotherapy income        | Nil      | 72,910    | 1,24,000 |
| 10 | Religious activity donation | Nil      | Nil       | 9,97,900 |
| 11 | Corpus donation             | Nil      | 19,90,000 | 1,00,000 |
|    |                             |          |           |          |

- 09 Before the learned Commissioner assessee also produced the bank statement of the assessee with Oriental Bank of commerce from 8 May 2013 to 31/3/2017. It further provided the register of outdoor patients before him. From the above activities it is apparent that assessee is carrying on charitable activities as envisaged u/s 2 (15) of the act.
- 10 Coming to the objections of the learned CIT – E we find that assessee has given a detailed explanation with respect to the land and building which is owned by the trustee and on which satsang Bhavan is constructed. Further the contractor's account was also produced which shows that the initially some amount was given for the construction activity however the contractor returned the sum and later on the trust carried on the

construction activities by looking at alternatives. The amount was received from the contractor through account payee cheques and same were also given earlier to him through account payee cheques. Therefore we do not find any merit in the finding of the learned CIT –E that the transaction with Mr Surinder Sukhija prevents assessee from getting registration u/s 12 AA of the act. Further the assessee has submitted the bank account since beginning. The amount is deposited after demonetization which were lying in the goallakhs of the assessee. This was also disclosed in the receipt and payment account. The bank account submitted by the assessee also supports this. The justification given by the assessee for holding the car and using it for the activities of the trust is also justifies the use of claiming of the depreciation as well as payment of insurance. In fact the level of activities being carried out by the trust justifies the use of car. Further the learned CIT E held that the credits in bank account as well as the receipt as per receipt and payment account for financial year 2016 – 17 does not match, however, there is no difference between the receipts which are required to be shown in the receipt and payment account. Assessee has also shown the bank account to the learned CIT – E, who could not find out or give any instances where the receipts are not accounted in the receipt and payment account but are credited in the bank account. The carrying on of the activities of satsang along with Jan Sewa Samiti has also been properly explained by the assessee that it carries on these activities along with these other organizations. Further the government of Haryana has give grant to the assessee trust for carrying on its medical activities for purchasing an ambulance. Appellant trust is also showing considerable amount of fees from the patient's and also applies substantial amount for medical relief , relief to poverty, gaushala and religious activities. All these activities falls under the gamut of provisions of Section 2 (15) of the act. The learned CIT E without any evidence and on irrelevant considerations has denied the registration to the trust u/s 12 AA of the act. Object of Section 12AA

of the Act, is to examine the genuineness of the objects of the Trust, but not the income of the Trust whether applied for charitable or religious purposes. Off course trust needs to show that the activities are genuine and in accordance with the objects. This is demonstrated by the applicant appellant exhaustively . The stage for application of income is yet to arrive i.e. when such Trust or Institution files its return. Therefore, we find present case arising out of the question of registration of the Trust and not of assessment. All these factual aspects can also be verified during the course of assessment proceedings when the assessee claims benefit of Section 11 – 13 of the income tax act after registration. In view of the above facts, we direct the learned CIT –E to grant registration to the assessee u/s 12 AA of the act, as it is carrying on charitable activities as envisaged u/s 2 (15) of the act and none of the activities carried out by the assessee are not genuine, in fact they are in accordance with the trust deed and in consonance with the provisions of The Income Tax Act.

11 Accordingly, appeal filed by the assessee is allowed.

**Sd/-  
( AMIT SHUKLA )  
JUDICIAL MEMBER**

**Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

Dated : 03/11/2021.

\*MEHTA\*

Copy forwarded to

1. Appellant;
2. Respondent;
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi.

|                                                                                       |           |
|---------------------------------------------------------------------------------------|-----------|
| Date of dictation                                                                     | 3.11.2021 |
| Date on which the typed draft is placed before the dictating member                   | 3.11.2021 |
| Date on which the typed draft is placed before the other member                       | 3.11.2021 |
| Date on which the approved draft comes to the Sr. PS/ PS                              | 3.11.2021 |
| Date on which the fair order is placed before the dictating member for pronouncement  | 3.11.2021 |
| Date on which the fair order comes back to the Sr. PS/ PS                             | 3.11.2021 |
| Date on which the final order is uploaded on the website of ITAT                      | 3.11.2021 |
| date on which the file goes to the Bench Clerk                                        | 3.11.2021 |
| Date on which the file goes to the Head Clerk                                         |           |
| The date on which the file goes to the Assistant Registrar for signature on the order |           |
| Date of dispatch of the order                                                         |           |