

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

Before Sh. D. Manmohan, Vice President And Sh. N. K. Saini, AM

ITA No. 2582/Del/2014 : Asstt. Year :

ITA No. 2583/Del/2014 : Asstt. Year :

M/s SRK Education & Research Charitable Trust, 49, Saket, Meerut (U.P)-250003	Vs	Commissioner of Income Tax, Meerut
(APPELLANT)		(RESPONDENT)
PAN No. AANTS3642P		

Assessee by : Sh. O. P. Sapra, Adv.

Revenue by : Sh. J. S. Minhas, ACIT DR

Date of Hearing : 02.07.2015	Date of Pronouncement : 02.07.2015
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ORDER

Per N. K. Saini, AM:

These two appeals by the assessee are directed against the separate orders each dated 21.04.2014 of Id. CIT, Meerut.

2. The issues involved in these appeals are co-related and the appeals were heard together so these are being disposed off by this common order for the sake of convenience and brevity.

3. In ITA No. 2582/Del/2014, the grievance of the assessee relates to the refusal to grant of registration u/s 12AA of the Income Tax Act, 1961 (hereinafter referred to as the Act).

4. In ITA No. 2583/Del/2014, the grievance of the assessee relates to the rejection of application for approval of exemption u/s 80G of the Act.

5. Facts of the case in brief are that the assessee trust was constituted vide Trust Deed dated 21.10.2013 and applied for registration u/s 12AA of the Act and 80G of the Act. The ld. CIT pointed out that the assessee had not done any charitable activity and that the trust deed does not specify how the property of the trust will be dealt with in the event of the dissolution of the trust and that out of the four trustees, two will be life members and they will be succeeded only by their heirs. The ld. CIT while rejecting the application gave a liberty to the assessee to file fresh application if and when it starts & carries on charitable work. He accordingly rejected the application moved by the assessee for registration u/s 12AA of the Act and since the application for registration u/s 12AA of the Act was rejected, consequently the application for approval of grant of registration u/s 80G of the Act was also rejected.

6. Now the assessee is in appeal. The assessee moved an application under Rules 29 of the Income Tax Rules (Tribunal), 1963 and requested for admission of the supplementary trust deed dated 06.08.2014 wherein a new clause 12 has been added with regard to dissolution of trust. The ld. Counsel for the assessee admitted that although the supplementary deed is relevant to decide the issue as to whether the registration u/s 12AA of the Act can be granted but it was not available to the ld. CIT. He requested to set aside the issue to the file of the ld. CIT. The ld. DR

in his rival submissions although supported the order of the Id. CIT but did not object if the issues are to be sent back to the file of the Id. CIT.

7. We, therefore, considering the totality of the facts and the material on record particularly this fact that the supplementary Trust Deed was not available to the Id. CIT for his consideration, deem it appropriate to set aside both the issues i.e. the registration u/s 12AA of the Act and grant of approval u/s 80G of the Act to the file of the Id. CIT to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee. We also direct the Id. CIT not to be influenced by his earlier orders each dated 21.04.2014.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

(Order Pronounced in the Court on 02/07/2015)

Sd/-
(D. Manmohan)
VICE PRESIDENT

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 02/07/2015

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR