

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Income Tax Appeal No. 46 / 2017

Commissioner of Income Tax-Exemption, Jaipur.

-----Appellant

Versus

Vyapar Sangh Court Road, Hanumangarh Junction.

-----Respondent



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

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

HON'BLE MR. JUSTICE RAMCHANDRA SINGH JHALA

Judgment

21/03/2018

In this Income-tax Appeal filed under Section 260-A of the Income Tax Act, 1961, the appellant Income Tax Department, has challenged the order dated 24.05.2017 passed by Income Tax Appellate Tribunal, Jodhpur Bench, Jodhpur in ITA No.336/Jodh/2016.

As per facts of the case, the respondent/assessee filed an application for approval under Section 12AA in Form No.10A of the Income Tax Act on 29.03.2016. The C.I.T. (E), Jodhpur, after examining the aims and objects of the Society vide its order dated 12.08.2016 observed that the activities of the respondent- Society cannot be held as charitable as the benefit of the society is sought

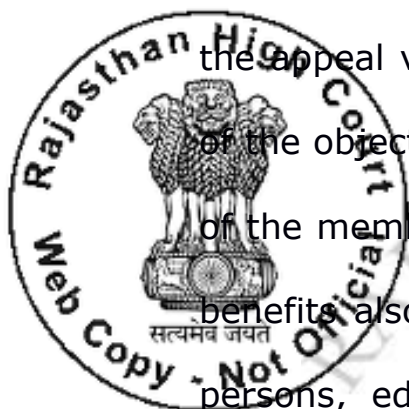
to be given to the limited group of persons i.e. members and their business establishments only. Thus, the respondent-assessee is not entitled to have its registration under Section 12AA of the Act.

Being aggrieved by and dissatisfied with aforesaid order dated 12.08.2016, the respondent/assessee preferred an appeal before the learned I.T.A.T., Jodhpur and the learned ITAT allowed the appeal vide its order dated 24.05.2017 while holding that out of the objects of the Society, few objects are meant for the benefit of the members and their establishment but at the same time the benefits also extends to other associations, women, children, old persons, education and social health and other objects in the

interests of public at large. It was thus wrong and incorrect to say that benefits extended only to the members and their business establishment. The learned ITAT held that C.I.T. (E) was not justified in rejecting registration under Section 12AA of the Income Tax Act and issued direction to grant registration under Section 12AA and under Section 80G (5) (6) of the Act.

Mr. K.K. Bissa, learned counsel for the appellants vehemently argued that the order of ITAT is not in consonance with law because it has been passed without application of mind, therefore, a substantial question of law emerges for consideration as to whether on the facts and circumstances of the case the learned ITAT was right in law in allowing the application under Section 12AA for registration.

After hearing learned counsel for the appellant, we have perused the aims and objects which are incorporated in the order of C.I.T. (E) (Annex.1), which reads thus: -



- “क- सदस्यों में एकता मेलजोल व सद्भावना को पैदा करना।
- ख- अनाज व अन्य वस्तुओं का व्यापार जो सदस्यों से सम्बन्धित हो उसको उचित बढ़ावा देना व सदस्यों के अधिकारों की रक्षा करना।
- ग- सदस्यों का व्यापार से सम्बन्धित विषयों पर सरकार व अन्य विभागों में प्रतिनिधित्व करना।
- घ- हर किस्म के अनाज से सम्बन्धित आंकड़ों व दूसरी सूचनाएं इकट्ठी करना व सदस्यों को अनाज पर सरकारी प्रतिबन्ध व अन्य आदेशों व कर सम्बन्धी विषयों में उचित सलाह देना।
- ङ- सदस्यों के व्यापार सम्बन्धी आपसी मतभेदों को सुलझाना।
- च- अन्य एसोसियेशन जिनका उद्देश्य इस एसोसियेशन के उद्देश्यों से मिलते-जुलते हों, सहयोग देना।
- छ- एक सदस्य व्यक्तिगत रूप से जिस समस्या का हल करने में असमर्थ हों उसके सामूहिक रूप से हल करने की कोशिश करना।
- ज- उस संघ का उद्देश्य स्त्री शिक्षा, बाल शिक्षा, प्रौढ शिक्षा, जन-स्वास्थ्य कार्य, सार्वजनिक सुविधाएं एवं रचनात्मक कार्य करना एवं जनहित के लिए कोई कार्य करना।
- झ- उपरोक्त उद्देश्यों की प्राप्ति के लिए प्रत्यक्ष व परोक्ष रूप से कार्य करना। संघ की राशि उपरोक्त उद्देश्यों के लिए ही व्यय की जायेगी। इन उद्देश्यों की पूर्ति में किसी का कोई व्यक्तिगत लाभ निहित नहीं है।”

We have also perused the finding given by learned C.I.T. (E) in three lines, in which the CIT (E) held that if the objects of the applicant are for the benefit of a limited group of person then it is not a charitable organization.

In our opinion, upon perusal of the objects incorporated in the order it cannot be said that any error has been committed by the learned I.T.A.T. in allowing the appeal filed by the respondent/assessee because it is evident from the objects that few objects are meant for the benefit of the members and their establishment but at the same time the benefits also extends to



other associations, women, children, old persons, education and social health and other objects in the interests of public at large. Therefore, we find that no substantial question of law emerges for consideration by this Court.

Consequently, the instant appeal is hereby dismissed.



(RAMCHANDRA SINGH JHALA) J.

(GOPAL KRISHAN VYAS) J.



सत्यमेव जयते