

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'A' BENCH, HYDERABAD.**

**BEFORE SHRI K. NARSIMHA CHARY, JUDICIAL MEMBER
AND
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

ITA No.1589/Hyd/2019

M/s. Share India,
Hyderabad.
PAN: AACTS0527J

.....Appellant.

Vs.

Commissioner of Income Tax (Exemptions),
Hyderabad.

.....Respondent.

Appellant By : None.

Respondent By : Shri Rajendra Kumar, (CIT-D.R.)

Date of Hearing : 29.03.2022.

Date of Pronouncement : 13.05.2022.

O R D E R

Per Shri Bhagirath Mal Biyani, A.M.:

This is an appeal by the assessee against the order of learned Commissioner of Income Tax (Exemptions), Hyderabad [**Ld.CIT(E)**] dated 30.08.2019 u/s 12AA(1)(b)(ii) of the Income Tax Act, 1961 [**the Act**].

2. At the time of hearing, nobody appeared from assessee's side despite service of the notice but the Ld. DR expressed strong willingness to dispose of the appeal. As the

appeal involves issue of Registration u/s 12A, it's a priority matter. We, therefore, proceeded to decide the appeal *ex-parte* qua the assessee, on the basis of available material and after hearing the Ld. DR.

3. The brief facts are such that the assessee is a society named "Share India". On 11.02.2019, the assessee filed an application in Form No. 10A to the Ld. CIT(E) for grant of registration u/s 12A of the Act. On 05.07.2019, the Ld. CIT(E) issued notice calling for Memorandum of Association and certain clarifications, which were supplied by the assessee. Thereafter on 20.08.2019 and 30.08.2019, the representatives of the assessee also appeared before the Ld. CIT(E) and made submissions. However, the Ld. CIT(E) was not satisfied with the submissions of assessee and rejected assessee's application vide order dated 30.08.2019, by observing as under in Para No. 3 and 4:

"3. There is an entity called as Share USA which is situated in USA. The assessee explained that assessee submits its budget proposal to Share USA and based on that Share USA sends them the funds. The assessee explains most of the funds receives from Share USA.

There is another entity called Share Medical Care which is running a Medical College in Medchal Mandal, Rangareddy District. The assessee's office is claimed to be situated in the premises of the Medical College. The assessee has not produced any document by which the

Medical College has granted a permission to utilize the premises for the purpose of the assessee. On the website of Share Medical Care most of the projects are similar to the projects claimed by the assessee.

Office bearer of assessee Mr. Madhumohan Venkat Katikineni is receiving salary form Share Medical Care. Thus, he is the employee of the Share Medical Care. Thus, he is the employee of the Share Medical Care. Thus, it cannot be establish that the work is done by the assessee and not by its sister concerned Share Medical Care. Therefore, genuineness of the activity is in doubt.

4. The assessee submitted that it has received grants from Share USA, centre for disease control USA and other entities. Thus, activity of the assessee is to execute the work mentioned in the agreements entered with funding agencies for which the assessee is paid. The assessee submitted copies of two such agreements. Thus, activity of assessee is nothing but execution of Contract for payment. Therefore, this cannot be a charitable activity as defined in Section 2(15) of the Act.”

4. Feeling aggrieved by the aforesaid order of Ld. CIT(E), the assessee has filed present appeal and now before us. By means of various grounds taken in Form No. 36, the assessee has claimed that Ld. CIT(E) has wrongly rejected the assessee’s application for grant of registration u/s 12A.

5. Before us, the Ld. DR repeated the findings made by Ld. CIT(E) in Para Nos. 3 & 4 of his order, reproduced above.

Analysing those findings, the Ld. DR pushed four points, viz. (i) the assessee receives most of the funds from a USA based entity called “Share USA”; (ii) the assessee’s office is claimed to be situated in the premise of a medical college located in Medchal Mandal, Rangareddy District, run by “Share Medical Care”, but the assessee has not produced any document to demonstrate that the said medical college has granted a permission to the assessee for utilization of premise; (iii) Mr. Madhumohan Venkat Katikineni, office bearer of the assessee, is receiving salary from “Share Medical Care” and therefore genuineness of the activity is in doubt; and (iv) the assessee has received grants from “Share USA”, “Centre for disease Control USA” and “Other entities” in terms of agreements entered with them which shows that the assessee is engaged in execution of work-contract. The Ld. DR submitted that these aspects clearly demonstrate that the activities of the assessee are in doubt. He further submitted that the Ld. CIT(E) has appropriately considered these aspects and thereafter rejected the assessee’s application with due application of mind, hence there is no error in the order of Ld. CIT(E). Therefore according to the Ld. DR, the order passed by the Ld. CIT(E), refusing registration to the assessee, is very much in accordance with the provisions of section 12AA(1)(b)(ii) of the Act and must be upheld.

6. We have perused the material available on record and also considered the submission of Ld. DR.

7. Section 12AA of the Act, as existing at the relevant time, reads as under:

“Procedure for registration.

12AA. (1) The Principal Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) or clause (aa) or clause (ab) of sub-section (1) of [section 12A](#), shall—

(a) XXX

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(i) shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant:”

8. A careful examination of clause (1)(b)(ii) of section 12AA, cited above, clearly indicates that the Ld. CIT(E) shall refuse registration only if he is not satisfied about the objects and the genuineness of the activities of the institution. A perusal of the order passed by the Ld. CIT(E) demonstrates that the Ld. CIT(E) has refused registration on the premise of four points, discussed earlier, but none of those points taken into account by Ld. CIT(A) indicates that there could be any dis-satisfaction with respect to the object or activities of the assessee. Let us examine those four points considered by Ld. CIT(E) one by one. Firstly, the Ld. CIT(E) has noted that the assessee receives most of the

funds from a USA based entity called "Share USA". It is noteworthy that in Para No. 4 of the order, the Ld. CIT(E) has himself stated that the grants are being received from "Share USA", "Centre for disease control USA" and "Other entities". Even otherwise, to our mind, the receipt of grants from one source or multiple sources, cannot be a factor to conclude anything against the assessee. Secondly, the Ld. CIT(E) has stated that the assessee's office is claimed to be situated in the premise of a medical college located at "Medchal Mandal, Rangareddy District", but the assessee has not produced any document to demonstrate that the said medical college has granted a permission to the assessee for utilization of premise. This observation of Ld. CIT(E) is also not strong enough to conclude otherwise. It is noteworthy that the assessee's address noted in the order passed by Ld. CIT(E) is "Mediciti Institute of Medical Sciences Campus, Ghanpur Village, Medchal Mandal, Ghanpur, Rangareddy District-501401" which is the same premise as claimed by the assessee for location of its office. In fact this is the premise where the revenue has been serving notices upon the assessee all along. Thirdly, the Ld. CIT(E) has stated that Mr. Madhumohan Venkat Katikineni, office bearer of the assessee, is receiving salary from "Share Medical Care" and therefore genuineness of the activity is in doubt. With respect to this observation, we find that the assessee has mentioned in the Ground No. 2(c) of the Form

No. 36 “*This is factually incorrect as Dr. Madhu Mohan is USA Citizen settled in America and has neither received any salary nor he is an employee of M/s Share Medical Care*”. Fourthly, the Ld. CIT(E) has observed that the assessee has received grants from “Share USA”, “Centre for disease Control USA” and “Other entities” in terms of agreements entered with them and hence the assessee is involved in execution of work-contract. We are unable to accept this reasoning too because receipt of grants in terms of agreement *per se* does not mean that the assessee is executing work-contracts. The grant may be lump sum or based on some agreed factor in the agreement like number of charitable activities undertaken. But to say that if the grant is in terms of the agreement, it is automatically a consideration for work-contract, would be fallacious. Thus, we observe that all of the four points taken into account by the Ld. CIT(E) are not sufficient enough to demonstrate any problem in the objects or activities of the assessee. We also observe that the order passed by the Ld. CIT(E) nowhere raises any objection on the nature and characteristics of the objects or activities pursued or undertaken by the assessee. The Ld. CIT(E) has nowhere observed in his order that any of the object or activity undertaken by the assessee is ingenuine or against the prescription of section 2(15) of the act. Therefore the refusal of the registration by Ld. CIT(E)

is not on a sustainable ground. Being so, the Ld. CIT(E) has wrongly rejected the application of the assessee.

9. On the basis of aforesaid discussion, we direct the Ld. CIT(E) to grant the registration as applied for by the assessee. The Ld. CIT(E) shall, however, be at liberty to impose any condition(s), as he deems fit, in accordance with the law.

10. In the result, this appeal of assessee is allowed.

Order pronounced in the open court on 13th May, 2022.

Sd/-

Sd/-

(K. NARASIMHA CHARY)

(BHAGIRATH MAL BIYANI)

Judicial Member

Accountant Member

Hyderabad, Dt. 13.05.2022.

* Reddy gp

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2.	CIT(E), Hyderabad.
3.	Addl. CIT (Exemptions), Hyderabad.
4.	ITO(E)-4, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.