

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "A " BENCH, HYDERABAD**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER AND SHRI
SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.1408/Hyd/2013

Ahinsa Education and Health
Trust, Hyderabad.

PAN:AADTA7614D

(Appellant)

-v-

DIT (E)
Hyderabad.

(Respondent)

Appellant by
Respondent by

Shri Laxminivas Sharma
Shri P. Somasekhar Reddy(DR)

Date of Hearing 20-02-2014
Date of pronouncement 20-02-2014

ORDER

PER SAKTIJIT DEY, J.M:

This appeal filed by the assessee is directed against the order dated 27-8-2013 of DIT(E) passed in F.No.DIT(E)/12(02)12A&80G/12-13.

2. The grievance of the assessee in ground Nos. 1 and 2 is against the order passed by the DIT (E) in granting registration to the assessee u/s 12AA as a Religious Trust.

3. Facts in brief are, the assessee trust was created as a public charitable trust on 2-11-2012 by virtue of a registered trust deed with the following aims and objects:-

“III. AIMS AND OBJECTS

The Trustees Shall be at liberty to apply the net income or interest of the funds and so much of the corpus of the Trust as they shall, in their absolute discretion, think fit for all or any of the following purpose or objects i.e. to say:

i) Education:

- a) Opening, Starting, Conducting, Participating, Maintaining Schools, Colleges, Libraries, Hostels and other educational and /or Skill development institutions.**
- b) Rendering help, Scholarship, assistance to deserving persons and poor and needy without any restrictions of Caste Creed or religion etc.**
- c) Rendering financial assistance to educational institutions, schools, Colleges, Universities, Libraries by way of donation or subscription.**

To build or assist in building. take possession, alter and improve, Maintaining and operating educational institutions, hostels and libraries. Medical and Health:To render help and assistance to deserving persons for medical treatment and maintain good health .

- a) Rendering financial assistance to hospitals, clinics, health care centers, by way of donation or subscriptions for treatment of the poor and needy without any discrimination of caste, creed, religion etc.**
- b) To build or assist in building, take possession, alter and improve, maintaining and operating medical institutions, research centres. clinics, nursing homes, maternity homes, Sanatoriums, Dispensaries, and other facilities for rendering medical and health care to general public.**

ii) Senior Citizens and Others:

- a) To Construct and manage and run the home for the aged persons widows, destitute, orphans, handicapped or poor and needy persons in the need and provided them with facilities, medical support and other needful things to lake care and do the things for their relief and uplift.**

iii) Physical Needs:

- a) Without any discretion of caste, creed, religion etc., to give aid to deserving or poor needy persons in the shape of money, clothes, articles or providing them with food or shelter.**
- b) To give relief to people in distress caused by elements of nature such as famine, tempest, flood, earthquake or any other natural calamity.**
- c) To build or assist in building, take possession, alter and improve, maintaining and operating Dharmshalas, Choultries , Wadi, Anadh Ashrams, Sadvrat or such other institutions and other facilities for rendering care to general public.**

iv) **Rural development and Social Welfare:**

To undertake, carryout, provide and sponsor rural development including programmes for promoting the social and economic welfare for the uplift of the public in any rural area and to incur any expenditure on any programme.

v) **Others:**

- a) **Digging wells and maintaining existing wells and other water supply facilities to general public.**
- b) **promote sports, music, art, literature and other recreational activities such as rest houses, parks etc for Public benefit**
- c) **To establish, support, maintain and aid boarding houses and hostels and other institutions for boarding, lodging of needy deserving students.**
- d) **To organize lectures or seminars or make publication of any books, literature, news papers ere for promotion of the objects of the trust and for national integration.**
- e) **To purchase, take on lease or exchange, hire or otherwise acquire any real or personnel property or rights and privileges which the Trustees may think necessary for the promotion of the objects of the Trust**
- f) **The Trustees may utilize the income of the trust for other purposes beneficial to the general public not falling under any of the foregoing purpose**
- g) **To do all such other things as shall further the attainment of the objects of the trust.**

5. The trust applied in the prescribed manner for registration u/s 12A of the Act before the DIT (E) on 11-2-2013. The DIT (E) vide order dated 27-8-2013 also granted registration u/s 12AA of the Act to the assessee. However, while doing so the DIT (E) in paragraph-2 of his order held as under:-

"Accordingly, the said trust is hereby registered as a Religious Trust in the register meant for application in Form No.10A vide F.No.DIT(E)/12(02)/12A & 80G/12-13. This registration is granted with effect from 11-2-2013 onwards."

Aggrieved by the aforesaid observation of the DIT (E) in treating it as a religious trust, assessee is before us.

6. We have heard the parties and perused the materials on record. The learned AR referring to the Aims and Objects of the Trust as mentioned in the trust deed submitted that the trust is purely a public charitable trust and not a single object is of religious nature. He therefore pleaded for issuing necessary direction to the DIT (E) for treating the Trust as a Public Charitable Trust instead of a Religious Trust. On going through the Aims and Objects of the trust reproduced hereinabove, we do not find even a single object of religious nature. On the contrary, the objects are of purely charitable nature. We therefore direct the DIT (E) to modify his order passed u/s 12AA by registering the assessee as a Public Charitable Trust instead of Religious Trust. The grounds raised are allowed.

7. The assessee has also raised the following additional ground:-

"The DIT (E) erred in directing the Trust to obtain the registration from the competent authority of Government of Andhra Pradesh u/s 43 of the Andhra Pradesh Charitable and Hindu Religious institutions and Endowments Act, 1987, where the same is not prescribed in the Income tax Act.

Since the issue raised in the additional ground is a legal issue and can be decided on the basis of materials on record, we admit the additional ground and proceed to decide the same. While granting registration u/s 12AA of the Act, the DIT (E) in paragraph-9 of his order observed that the Trust should obtain registration from competent authority u/s 43 of Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Act, 1987. Further he directed the trust to furnish a copy of such

registration within a period of six months. For this purpose, the DIT (E) relied upon decision of Hon'ble Supreme Court in case of Biharilal Jaiswad and Others vs. CIT & Others(217 ITR 746) and of Hon'ble Andhra Pradesh High Court in case of M/s New Noble Educational Society vs. Chief Commissioner of Income-tax (334 ITR 303). Having considered the submissions of the parties, we are of the view that the DIT (E) was not correct in directing the assessee to obtain registration/s 43 of the Andhra Pradesh Charitable & Hindu Religious Institutions and Endowments Act, 1987. When the provisions contained u/s 12A read with sec. 12AA of the Act do not mandate obtaining of such registration as a condition precedent for registration u/s 12A, the DIT (E) cannot insist upon such registration. Different Benches of the Tribunal including the Hyderabad Benches have also expressed the view that for grant of registration u/s 12A of the Act it is not necessary for a trust to get registered under the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Act, 1987. The decisions relied upon by the DIT (E) are totally inapplicable to a case of grant of registration/s 12A of the Act. Therefore, we direct the DIT (E) not to insist upon obtaining registration u/s 43 of the Andhra Pradesh Charitable & Religious Institutions Endowments Act, 1987. This ground is also allowed.

8. In the result, assessee's appeal is allowed.

Order pronounced in the court on 20-02-2014.

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Hyderabad,
Dated the 20th February, 2014.

Jmr*

Copy to:-

- 1) *Ahinsa Education and Health Trust, Sagar Co-operative Society Limited, Road No.2, Banjara Hills, Hyderabad.*
- 2) *DIT (E), Basheerbagh, Hyderabad.*
- 3) *The Departmental Representative, I.T.A.T., Hyderabad.*