

HIGH COURT OF DELHI

Director of Income-tax

v.

Neel Gagan Charitable Trust*

SANJIV KHANNA AND SANJEEV SACHDEVA, JJ.

IT APPEAL NO. 73 OF 2012†

JULY 8, 2013

ORDER

1. Revenue has preferred this appeal under Section 260A of the Income Tax Act, 1961 challenging the order dated 28.01.2011 passed by the Income Tax Appellate Tribunal setting aside the order of the Director of Income Tax (Exemptions) refusing to grant registration to the respondent/assessee under Section 80G. The Tribunal in the impugned order, while allowing the appeal, has mentioned that the appellant had granted registration to the respondent/assessee under Section 12AA and the said registration subsists and has not been withdrawn or revoked. Learned counsel for the appellant accepts the said position and does not dispute that the registration under Section 12AA has been granted to the respondent/assessee and still continues.

2. Learned counsel for the appellant has, however, submitted that there is violation of section 80G (5)(iv) as by the said provision the respondent/assessee is required to maintain regular account of its receipts and expenditure but in fact/the respondent assessee has failed to maintain regular account of its receipts and expenditure.

3. Section 80G (5)(iv) requires an institution or fund to maintain accounts of its receipts and expenditure but we find that the Director of Income Tax (Exemption), in his order dated 24.09.2010, has not alleged or stated that there was any such violation. Said order records that for the period ending 31.03.2008 and 31.03.2009 hardly any expenditure had been incurred and no charitable activities were performed. It is noticeable that for the financial year ending 31.03.2008, the corpus of the respondent/society was merely Rs. 11,000/-. It went up to Rs. 35,41,000/- in the year ending 31.03.2009. When the corpus amount was received, is not stated or mentioned. On the other hand, the case of the respondent/assessee was/is that they had spent Rs. 25,000/- on 20 operations of disabled patients. Further, they had collected the Corpus to establish a Dharamshala. We do not find any discussion in the order dated 24.09.2010 which establishes that there was violation of clause (iv) of section 80G (5). The contention therefore has no merit.

4. In view of the aforesaid, we do not find any merit in the present appeal and the same is dismissed with costs of Rs. 10,000/-.

POOJA

*In favour of assessee.

†Arising out of order of Tribunal, dated 28-1-2011.