

National Institute of Aeronautical Engineering Educational Society

Uttarakhand High Court on Section 2(15) Charity vis a vis Education: ITAT Order Reversed and CIT refusal order u/s 12A upheld June 2009

In captioned case, High Court has interalia observed as under:

“1) Clause (a) of sub-section (1) of Section 12 AA, empowers the CIT to call for such documents or information from the trust or institution, as he thinks necessary in order to satisfy himself about the genuineness of the activities of the trust or institute and may also make such inquiries, as he may deem necessary in this behalf. Said provision in Section 12AA makes it clear that the CIT is not supposed to allow the registration with blind eyes.

2) We agree with the argument advanced on behalf of the appellant that mere imparting education for primary purpose of earning profits cannot be said to be charitable activity as interpreted by the Apex Court in MCD Vs. Children Book Trust (1992) 3 SCC Pg. 390, we are unable to agree with the ITAT that since word “education” is not qualified in Section 2(15) of the Act, as such, every application received by a society, who is engaged in the business of imparting “education” is bound to be registered under Section 12 AA. If that view is accepted in that case, CIT will be failing in its duty to comply the provision of law contained in clause (a) of sub-section (1) of Section 12 AA of the Act. Question of law stands answered accordingly. In expression “charitable purpose” charity is soul of the expression. Mere trade and commerce in education cannot be said to be a charitable purpose.”