

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH; AMRITSAR.

BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER
AND SH. B.P. JAIN, ACCOUNTANT MEMBER

I.T.A. No. 329(Asr)/2013
Assessment year: 2012-13
PAN: AAAAAA3053C

M/s Alexandra School,
Amritsar
(Appellant)

Vs.

Commissioner of Income
Tax-II, Amritsar
(Respondent)

Appellant by: Sh. Satish Bansal, CA

Respondent by: Sh. Mahavir Singh, Sr.DR

Date of hearing: 23.01.2014

Date of pronouncement: 26.02.2014

ORDER

PER BENCH

1. The assessee has filed the present appeal against the impugned order dated 26.04.2013 passed by learned Commissioner of Income Tax-II, Amritsar, on the following grounds:
 - i. That the order of honourable CIT is illegal and arbitrary and contrary to facts and the legal proposition of law.
 - ii. That the worthy CIT has committed a grievous error of law by stating that this school is being run to cater the Christian community and such is its objects do not qualify u/s 12A/12AA because it is not run for the benefit of the public at large.
 - iii. That the worthy CIT while making the above observations has lost sight of the fact that under Article 30(1) of the constitution of the India, the minorities are conferred a fundamental right to run their

educational institutions to preach their religious tenets while imparting education to the students and also to engage in activities for management and consolidation of their religious character.

- iv. That this right of minorities has been upheld repeatedly by the Honourable Supreme Court in cases contextual to this issue.
- v. That the appellant craves leave to add, amend or withdraw a ground or a new ground of appeal.

2. The assessee-trust filed an application under section 12A(a) of the Income-tax Act (in short “the Act”) in Form no. 10A for grant of registration under Section 12AA of the Act on 30.10.2012 in the office of Commissioner of Income Tax-II, Amritsar. The trust was registered with the Registrar of Firms and Societies Punjab, Chandigarh on 15th March, 1976. Learned CIT-II, Amritsar, fixed the hearing of the assessee’s case on 20.03.2013 and asked the assessee-trust to show “*why registration under Section 12AA be granted when the main purpose of the association is run school for primary purpose to cater to Christian Community as per its purpose declared in MoA and its objectives*”. The assessee-trust filed its reply dated 25.04.2013 and the main point raised by the assessee-trust is that although the school is run by members of the Christian Society, it is totally secular and deals with only education without any reservation of religion, caste and creed. Learned CIT-II, Amritsar, has considered the reply of the assessee-trust as well as the aims and objectives of the

assessee-trust which the learned CIT-II, Amritsar, has reproduced in the impugned order at page nos. 1 and 2. After perusing the aims and objectives of the assessee-trust, the learned CIT-II, Amritsar, held that the trust falls under clauses (a) and (b) of Section 13(1) of the Act, and also held that it is clear from the purpose and objectives of the trust that it is created and established for the benefit of a particular religious community or caste. Therefore, the assessee trust is not entitled for registration under Section 12AA of the Act and he rejected the application dated 30.10.2012 filed by the assessee-trust vide impugned order dated 26.04.2013 passed under Section 12AA of the Act.

3. Aggrieved by the impugned order dated 26.04.2013 passed by learned CIT-II, Amritsar, under Section 12AA of the Act, the assessee filed the present appeal.
4. At the time of hearing, learned counsel for the assessee filed a small paper book containing pages from 1 to 16, in which he has attached the Letter dated 25/4/13 filed before CIT-II, Amritsar; and Memorandum of Association, and certified that he has already filed these documents before the CIT-II, Amritsar. He also drew out attention towards the decision of Hon'ble Punjab & Haryana High Court in the case of

Commissioner of Income Tax-II, Chandigarh Vs. Surya Educational & Charitable Trust reported in [2011] 15 taxmann.com 123 (Punj. & Har) and the order of this Bench passed in the case of M/s Divine Health Services vs. The Commissioner of Income Tax-II, Foundation, Amritsar, passed in ITA No. 417(Asr)/2010 for A.Y. 2010-11, dated 07.06.2012. He argued that learned CIT-II, Amritsar, has wrongly rejected the application filed by the assessee for the registration of the assessee-trust on the ground that the assessee-trust has been established for the benefit of a particular religious community, which is totally wrong. He further stated that the school is run by the members of the Christian Society; it is totally secular and deals only with education, without any reservation of religion caste and creed. No special emphasis is given to the students of Christian families or Christian Staff employed. Finally, he argued almost ninety percent of good educational institutions are run by some or the other religion and the biggest example is that DAV institutions in fact, teach and preach Hindu religion, the Chief Khalsa Dewan run schools also preach teachings of Sikh religion but the registration has granted to them ignoring the assessee. He requested that the impugned order passed by learned CIT-II, Amritsar, may be cancelled by accepting the appeal

filed by the assessee with direction to CIT-II, Amritsar, to grant registration to the assessee-trust under Section 12AA of the Act.

5. Learned DR relied upon the order passed by learned CIT-II, Amritsar.
6. We have heard both the parties and perused the relevant records available with us and in order to decide the issue in dispute, it is very much relevant to reproduce the purpose and objectives of the assessee-trust i.e. M/s Alexandra School, Amritsar, the same are reproduced as under:

“PURPOSE

The purpose of this Association is to run and manage the schools called ALEXANDRA SCHOOLS, AMRITSAR. For the purpose of imparting education primary to children of Christian Minority Community, for which it was founded that is to provide a sound education on a “Christian” basis to every girl/boy who voluntarily joins the Schools, in Christina atmosphere of love and service to all, regardless of caste, creed, colour, or distinction of any kind in order to produce enlightened and responsible citizens for India.

OBJECTIVES:

In order to fulfill the above purpose of providing quality education in a Christian environment, the society of the Alexandra Schools, shall have the following objectives:

- i. To manage and control, through a management committee, the Alexandra Schools, Amritsar as a Diocesan Institution of the Diocese of Amritsar in the Church of North India and thereby*

as a Minority Institution falling under Article 30(i) of constitution of India.

- ii. To present al all the Truth of God and his/her work as revealed in Jesus Christ.*
- iii. To share this truth and understanding through instruction personal relationship and the total programme of the Schools.*
- iv. To help each child discover and develop his/her potential as an individual by encouraging enquiry and creativity.*
- v. To provide a well-rounded education and high academic standard and to develop responsible citizenship in our students.*
- vi. To encourage appreciation of our national and cultural heritage and to promote national integration*
- vii. To promote global understanding and earth consciousness.*
- viii. To broaden the scope of education by integrating work experience in to the academic programmes.*
- ix. To develop leadership through co-curricular activities.*
- x. To provide clean, attractive well maintained physical facilities which reflect the above mentioned objectives and concerns.”*

7. Learned CIT-II, Amritsar, has given adequate opportunity to the assessee-trust for establishing its case for grant of registration under Section 12AA of the Act but the assessee-trust, in its reply dated 25.04.2013, mainly contended that the school is run by members of the Christian Society, and it is totally secular and deals with only education without any reservation of religion, caste and creed. On perusal of the **PURPOSE** of this association, it is clear that the purpose of this Association is to run and manage the Schools called ALEXANDRA SCHOOLS, AMRITSAR, for the purpose of imparting education primary

to children of Christian Minority Community, for which it was founded that is to provide a sound education on a “Christian” basis to every girl/boy who voluntarily joins the Schools, in Christina atmosphere of love and service to all, regardless of caste, creed, colour, or distinction of any kind in order to produce enlightened and responsible citizens for India.

8.1 Keeping in view the aforesaid **PURPOSE** for which the assessee-trust has been created only for the benefit of one particular religious community i.e. Christian, we are of the view that most of the societies after getting registered with the Registrar of Firms and Society Punjab, Chandgarh file an application under Section 12A(a) of the Act in Form no. 10A for grant of registration under Section 12AA of the Act in order to get the benefit of exemption of its income in a routine manner but they do not practically render their services to public at large. In view of the requirement of Section 12AA of the Act, it is the duty of the Assessing Officer to make inquiry as per direction of CIT and it is also the duty of the learned CIT that before granting registration to any trust/society/institution, he should go through all relevant provisions of law for which the assessee will get the benefit after

granting the registration. If the assessee has violated any conditions mentioned in any relevant provisions of law relating to the registration of trust/society/institution, then the registration should not be granted to any trust/society/institution. The Commissioner should fully satisfied himself about the genuineness of the activities of the trust or institution before granting registration to any society/institution. If there is any doubt in the aims and objectives of the Society/Institution who applied for registration under Section 12AA of the Act, then the Commissioner can make an inquiry through concerned Assessing Officer about genuineness of the activities of the trust or institution. After completion of all formalities, which are required under Section 12AA of the Act, the Commissioner is duty-bound to pass a speaking order for accepting or rejecting the request of the society/institution.

8. In the present case, it is very much clear from the purpose of the assessee-trust that the assessee-trust has been formed to impart education primary to children of Christian Minority Community, which is contrary to law. Secondly, the main objective of the society-trust is to provide quality education in the Christian environment, which is also contrary to the law.

9. We have also seen that the entire administration of the assessee-trust is controlled by Christian people. No outsider has been engaged in the administration of the assessee-school, meaning thereby, the assessee-school has been created only for the benefit of particular religious community. Therefore, in our considered view, learned CIT-II, Amritsar, vide impugned order dated 26.04.2012 has rightly rejected the application dated 30.10.2012 filed by the assessee for grant of registration under Section 12AA of the Act.
10. As regards to the case-laws cited by the learned counsel for the assessee on the issue in dispute, in our considered view these are not applicable on the facts of the present case. Learned counsel for the assessee has not brought on record any other case-law, which facts and circumstances are similar to the assessee's case, and where the trust/society/institution has been established for the benefit of a particular religious community and learned CIT or any Bench of I.T.A.T. has granted registration to the society under Section 12AA of the Act, .
11. With the foregoing discussion, we do not find any infirmity in the impugned order and accordingly we uphold the impugned order dated

26.04.2013 passed by learned CIT-II, Amritsar, and dismiss the appeal filed by the assessee.

12. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 26th February, 2014

Sd./-
(B.P. JAIN)
ACCOUNTANT MEMBER

Sd./-
(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 26th February, 2014

/RK/

Copy of the order forwarded to:

1. The Assessee: M/s Alexandra School, Amritsar
2. Commissioner of Income Tax-II, Amritsar
3. The CIT(A),
4. The CIT,
5. The SR DR, I.T.A.T.,

True copy

By order

(Assistant Registrar)
Income Tax Appellate Tribunal,
Amritsar Bench: Amritsar.