

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 6054/Del/2018**

**Assessment Year: -----**

M/S GIAN SAGAR EDUCATIONAL VS.  
AND CHARITABLE TRUST,  
FLAT NO. 509, 5<sup>TH</sup> FLOOR,  
INDRAPRAKASH BUILDING,  
BARAKHAMBA ROAD,  
NEW DELHI – 110 001  
(PAN: AAATG5827B)  
**(ASSESSEE)**

ACIT, CC-27  
NEW DELHI

**(RESPONDENT)**

**Assessee by:** Sh. Rajiv Saxena, Adv. &  
Sh. R.P. Mall, Adv.

**Revenue by:** Sh. Amit Katoch, Sr. DR.

**ORDER**

**PER H.S. SIDHU, JM**

This appeal is filed by the assessee against the order dated 27.10.2017 of the Ld. Pr. Commissioner of Income Tax, (Central)-3, New Delhi passed u/s. 12AA(3) r.w.s. 12A of the Income Tax Act, 1961 (In short "Act").

2. The grounds raised by the Assessee read as under:-

1. That the learned Pr. Commissioner of Income Tax (Exemptions) has grossly erred both in law and on facts in passing the impugned order dated 27.10.2017 under section 12AA(3) r/w section 12 of the Income Tax Act, 1961, withdrawing registration granted to the appellant under section 12AA of the Income Tax Act, 1961 vide CIT-XI, Chandigarh - II, Chandigarh letter F. No. CIT/CHD- II/Tech/3612 dated 2.4.2005.
  
2. That the Pr. CIT while withdrawing the registration has erred in failing to appreciate that since inception appellant is carrying on the activity of providing education through the medical college run by the appellant which is a charitable activity as per the provisions of section 2(15) of the Act, and there is no change in the aforesaid activity and hence withdrawal of registration u/s 12AA(3) of the Act on the ground that the activities of the trust are not in accordance with the objects of the trust are wholly erroneous and unsustainable in law.

3. That the Pr. CIT erred on facts and in law in alleging that appellant trust was engaged in the nefarious activities for inducting of fresh batch of students for academic session without requisite infrastructure which is in violation of clause (ii) para 4 of the trust deed, simultaneously the same was in violation of section 2(15) of the Act which is factually incorrect and hence misconceived.

That various adverse findings recorded in the impugned order are factually incorrect, legally misconceived and untenable.

5. Without prejudice to the aforesaid grounds, that the Pr. CIT erred on facts and in law in withdrawing registration under section 12AA(3) of the Act since inception and same is without jurisdiction and contrary to the statutory provisions.

It is therefore prayed that the order of the Ld. Pr. Commissioner of Income Tax withdrawing the registration granted to the appellant under section

12AA of the Income Tax Act be quashed and appeal of the appellant may kindly be allowed.

2. The brief facts of the case are that the assessee Trust is running a medical college & hospital under the name of M/s Gian Sagar Medical College & Hospital at Banur, Punjab and Mohali. The assessee trust is registered u/s 12A of the Income Tax Act, 1961 vide CIT-XI, Chandigarh-II, Chandigarh letter F. No. CIT/CHD-II/Tech/3612 dated 2.4.2005 and registered at S.No.89. The assessee-trust is also eligible for tax relief u/s 80G of the I.T. Act, 1961 vide Order dated 07.05.2007.

2.1 During the course of enquiry conducted by DDIT(Inv.), Chandigarh in the case of M/s PACL group of cases on 22.3.2010, it was observed that CBI had issued arrested Sh. Kamaljit Singh, CEO of M/s Gian Sagar Medical College & Hospital during his official duty on 22.4.2010 owing to the allegation that he has delivered of Rs. 2 Crore to Dr. Ketan Desai, the then Chief of Medical Council of India through a middleman Sh. J.P. Singh. The same fact was mentioned in the Appraisal Report of the DDIT (Inv.), Patiala. On the basis of enquiry conducted by DDIT (Inv.), Patiala and CBI, the AO

added the amount of Rs. 2 Crore as undisclosed income for the assessee for AY 2011-12 which was subsequently confirmed by the Ld. CIT(A)-30, New Delhi vide his order dated 20.1.2016 in ITA No. 16/14-15/1593. In view of the facts and circumstances narrated above, after affording reasonable opportunity to the trust registration granted u/s. 12A vide order dated 02.04.2005 to the assessee trust, was cancelled since inception, vide order dated 01.03.2016 by the Ld. Pr. CIT(Central)-3, New Delhi. Against the said decision, the assessee filed appeal before the ITAT that no opportunity was given to the assessee before passing this order. After considering the appeal of the assessee, the Tribunal cancelled the order dated 01.03.2016 passed by the Ld. Pr. CIT(Central)-3, New Delhi and set aside the issue in dispute to the file of the Ld. Pr. CIT(Central)-3, New Delhi with the direction to decide the issue in dispute afresh under the law after giving adequate opportunity of being heard to the assessee. In compliance to the order of the ITAT giving adequate opportunity of being heard to the assessee, a fresh show cause notice dated 14.9.2017 as to why registration granted u/s. 12AA may not be cancelled was served upon the assessee trust through speed

post and date of hearing was fixed on 23.08.2017. However, neither assessee nor its authorised representative appeared before the Ld. Pr. CIT (Central)-3, New Delhi on the fixed date of hearing. Again on 07.09.2017, marked 'last and final' show cause notice was served upon assessee through speed post and date of hearing was fixed on 14.09.2017. Again neither assessee nor its authorised representative appeared before the Ld. Pr. CIT (Central)-3, New Delhi on the scheduled date and time. After expiry of 07 days of the scheduled date, the ARs of the assessee trust appeared before the Ld. Pr. CIT (Central)-3, New Delhi on 21.09.2017 and discussion was held on the submissions filed by the assessee on 23.02.2017. After considering the submission of the AR, material available on record, it was noticed by the Ld. Pr. CIT (Central)-3, New Delhi that CBI Team had arrested Sh. Kamaljit Singh, CEO of M/s Gian Sagar Medical College and Hospital while on his official duty on 22.04.2010 on the allegations that he has delivered an amount of Rs. 2 crore to Sh. Ketan Desai, President of Executive Committee of MCI through a middleman Mr. JP Singh and also on the same date, Dr. Sukhwinder Singh, Vice Chairman of M/s Gian Sagar Medical College & Hospital was

chargesheeted and arrested by CBI team. Ld. Pr. CIT (Central)-3, New Delhi has observed that the assessee was engaged in the nefarious activities for inducing of fresh batch of students for academic session without the requisite infrastructure and therefore, it is a clear violation of clause (ii) of para 4 of the trust deed, simultaneously, violating the provisions of section 2(15) of the I.T. Act while carrying out of its activity, hence, he rejected the registration u/s. 12A of the Act vide his impugned order dated 27.10.2017. Aggrieved with the impugned order dated 27.10.2017, assessee is in appeal before the Tribunal.

3. Ld. Counsel for the assessee has submitted that learned Pr. Commissioner of Income Tax (Exemptions) has grossly erred both in law and on facts in passing the impugned order dated 27.10.2017 under section 12AA(3) r/w section 12 of the Income Tax Act, 1961, withdrawing registration granted to the assessee under section 12AA of the Income Tax Act, 1961 vide CIT-XI, Chandigarh - II, Chandigarh letter F. No. CIT/CHD-II/Tech/3612 dated 2.4.2005. It was further submitted that the Pr. CIT while withdrawing the registration has erred in failing to appreciate that since inception assessee is carrying on the

activity of providing education through the medical college run by the appellant which is a charitable activity as per the provisions of section 2(15) of the Act, and there is no change in the aforesaid activity and hence withdrawal of registration u/s 12AA(3) of the Act on the ground that the activities of the trust are not in accordance with the objects of the trust are wholly erroneous and unsustainable in law. It was further submitted that the Ld. Pr. CIT erred on facts and in law in alleging that assessee trust was engaged in the nefarious activities for inducting of fresh batch of students for academic session without requisite infrastructure which is in violation of clause (ii) para 4 of the trust deed, simultaneously the same was in violation of section 2(15) of the Act which is factually incorrect and hence misconceived. It was further informed that various adverse findings recorded in the impugned order are factually incorrect, legally misconceived and untenable. It was further submitted that the Pr. CIT erred on facts and in law in withdrawing registration under section 12AA(3) of the Act since inception and same is without jurisdiction and contrary to the statutory provisions. Therefore, he prayed that the order of the Ld. Pr. Commissioner of Income Tax withdrawing the



registration granted to the assessee under section 12AA of the Income Tax Act be quashed and appeal of the assessee may kindly be allowed. In support of his contention, he relied upon the decision of the Hon'ble Allahabad High Court in the case of ACIT-I vs. Agra Development Authority decided in IT Appeal No. 134 of 2013 vide order dated 7.12.2017.

4. On the contrary, Ld. DR relied upon the impugned order of the Ld. Pr. CIT and stated that CBI Team had arrested Sh. Kamaljit Singh, CEO of M/s Gian Sagar Medical College and Hospital while on his official duty on 22.04.2010 on the allegations that he has delivered an amount of Rs. 2 crore to Sh. Ketan Desai, President of Executive Committee of MCI through a middleman Mr. JP Singh and also on the same date, Dr. Sukhwinder Singh, Vice Chairman of M/s Gian Sagar Medical College & Hospital was chargesheeted and arrested by CBI team. He further submitted that the assessee was engaged in the nefarious activities for inducing of fresh batch of students for academic session without the requisite infrastructure and therefore, it is a clear violation of clause (ii) of para 4 of the trust deed, simultaneously, violating the provisions of section 2(15) of the I.T. Act while carrying out of

its activity, hence, Ld. Pr. CIT has rightly rejected the registration u/s. 12A of the Act vide his impugned order dated 27.10.2017, which does not need any interference.

5. We have heard both the parties and perused the records especially the impugned order of the Ld. Pr. CIT. We find that during the course of enquiry conducted by DDIT(Inv.), Chandigarh in the case of M/s PACL group of cases on 22.3.2010, it was observed that CBI had arrested Sh. Kamaljit Singh, CEO of M/s Gian Sagar Medical College & Hospital during his official duty on 22.4.2010 owing to the allegation that he has delivered of Rs. 2 Crore to Dr. Ketan Desai, the then Chief of Medical Council of India through a middleman Sh. J.P. Singh. The same fact was mentioned in the Appraisal Report of the DDIT (Inv.), Patiala. On the basis of enquiry conducted by DDIT (Inv.), Patiala and CBI, the AO added the amount of Rs. 2 Crore as undisclosed income of the assessee for AY 2011-12 which was subsequently confirmed by the Ld. CIT(A)-30, New Delhi vide his order dated 20.1.2016 in ITA No. 16/14-15/1593 and keeping in view of the facts and circumstances narrated above, after affording reasonable opportunity to the trust registration granted u/s. 12A of the Act vide order dated

02.04.2005 to the assessee trust, was cancelled since inception, vide impugned order dated 01.03.2016 by the Ld. Pr. CIT(Central)-3, New Delhi, against which the assessee filed appeal against this order before the Tribunal stating that no opportunity was given to the assessee before passing this order. After considering the appeal of the assessee, the Tribunal cancelled the order dated 01.03.2016 passed by the Ld. Pr. CIT(Central)-3, New Delhi and set aside the issue in dispute to the file of the Ld. Pr. CIT(Central)-3, New Delhi with the direction to decide the issue in dispute afresh under the law after giving adequate opportunity of being heard to the assessee. In compliance to the order of the Tribunal giving adequate opportunity of being heard to the assessee, a fresh show cause notice dated 14.9.2017 as to why registration granted u/s. 12AA of the Act may not be cancelled was served upon the assessee trust through speed post and date of hearing was fixed on 23.08.2017. However, neither assessee nor its authorised representative appeared before the Ld. Pr. CIT (Central)-3, New Delhi on the fixed date of hearing. Again on 07.09.2017, 'last and final' show cause notice was served upon assessee through speed post and date of hearing was

fixed on 14.09.2017. Again neither assessee nor its authorised representative appeared before the Ld. Pr. CIT (Central)-3, New Delhi on the scheduled date and time. It is noted that after expiry of 07 days of the scheduled date, the ARs of the assessee trust appeared before the Ld. Pr. CIT (Central)-3, New Delhi on 21.09.2017 and discussion was held on the submissions filed by the assessee on 23.02.2017 and after considering the submission of the AR, material available on record, it was noticed by the Ld. Pr. CIT (Central)-3, New Delhi that CBI Team had arrested Sh. Kamaljit Singh, CEO of M/s Gian Sagar Medical College and Hospital while on his official duty on 22.04.2010 on the allegations that he has delivered an amount of Rs. 2 crore to Sh. Ketan Desai, President of Executive Committee of MCI through a middleman Mr. JP Singh and also on the same date, Dr. Sukhwinder Singh, Vice Chairman of M/s Gian Sagar Medical College & Hospital was chargesheeted and arrested by CBI team. It was further observed that Ld. Pr. CIT (Central)-3, New Delhi has noted that the assessee was engaged in the nefarious activities for inducing of fresh batch of students for academic session without the requisite infrastructure and therefore, it is a clear

violation of clause (ii) of para 4 of the trust deed, simultaneously, violating the provisions of section 2(15) of the I.T. Act while carrying out of its activity. We further note that the assessee-society was established with the sole intention of helping charitable and philanthropic venture of running medical college and thereby seeking to claim exemption on the income so generated under section 11 and 12 of the I.T. Act. It is further noted that due to nexus of corruption by way of bribe and criminal misconduct by the assessee trust, registration of the Trust was cancelled since inception u/s. 12AA(3) of the Income Tax Act, 1961. Therefore, in our opinion, Ld. Pr. CIT has rightly observed that a charitable trust conduct must be at par with its provision of trust deed and as per existing law. Its misconduct and desire to defy rules and norms have been exposed by virtue of the bribe activities. Such incidents cannot be classified as charitable by any reckoning. Such organisations which do not carry any charitable activity, cannot be granted registration. In these facts and circumstances, Ld. Pr. CIT was correctly satisfied that the activities of the trust are not genuine and not being carried out in accordance with the objects of the trust. Accordingly, after affording reasonable

opportunity to the trust, registration granted u/s. 12A of the Act vide order dated 02.4.2005 to the assessee trust is cancelled since inception, which does not need any interference. It is also noted that the facts of the case law relied upon by the Ld. Counsel for the assessee i.e. the decision of the Hon'ble Allahabad High Court in the case of ACIT-I vs. Agra Development Authority decided in IT Appeal No. 134 of 2013 vide order dated 7.12.2017 is totally distinguished to the facts of the present case, because in the present case the assessee-society was established with the sole intention of helping charitable and philanthropic venture of running medical college and thereby seeking to claim exemption on the income so generated under section 11 and 12 of the I.T. Act. However, due to nexus of corruption by way of bribe and criminal misconduct by the assessee trust, registration of the Trust was cancelled since inception u/s. 12AA(3) of the Income Tax Act, 1961. We also note that in the case of ACIT-I vs. Agra Development Authority (Supra), it was observed by the Court that assessee had not obtained registration by practicing fraud or collusion or concealment of any material fact, but in the present case there is nexus of

corruption by way of bribe and criminal misconduct by the assessee trust. Keeping in view of the aforesaid discussions, we are of the considered view that there is no infirmity or illegality in the impugned order dated 27.10,.2017 of the Ld. Pr. Commissioner of Income (Central)-3, New Delhi, hence, we confirm the same and reject the grounds raised by the Assessee.

6. In the result, the appeal filed by the Assessee stand dismissed.

Order pronounced on 08/04/2019.

**Sd/-**

**[L.P. SAHU]  
ACCOUNTANT MEMBER**

**Sd/-**

**[H.S. SIDHU]  
JUDICIAL MEMBER**

*Date 08/04/2019*

**"SRBHATNAGAR"**

**Copy forwarded to: -**

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

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By Order,

Assistant Registrar, ITAT, Delhi Benches