

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.606/Viz/2014  
(निर्धारण वर्ष/Assessment Year : )

M/s Kandukuri Bangaramma  
Charitable Trust  
204, 1<sup>st</sup> Floor, Vyshnavi Legend  
Apartments  
Akkayyapalem  
Visakhapatnam  
[PAN :AACTK1821D]

Vs. Commissioner of Income Tax-2  
Visakhapatnam

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से / Respondent by

: Shri C.Kameswara Rao, AR  
: Shri D.K.Sonowal, CIT, DR

सुनवाई की तारीख / Date of Hearing

: 28.08.2019

घोषणा की तारीख/Date of Pronouncement

: 27.09.2019

आदेश /ORDER

Per Shri D.S.Sunder Singh, Accountant Member :

This appeal is filed by the assessee against the order of the  
Commissioner of Income Tax (CIT)-2, Visakhapatnam vide  
F.No.CIT-II/VSP/2014-15/12A/05 dated 30.09.2014.

2. All the grounds of appeal are related to the refusal of registration u/s 12AA of the Income Tax Act, 1961 (in short 'Act'). In this case, the assessee has filed the application in Form No.10A seeking registration u/s 12AA of the Act. In the application, the assessee Trust stated that it is running the academy to impart training in maritime engineering in the name and style of Sea World Maritime Academy. The Ld.CIT observed that the assessee Trust has entered into an agreement with the Australian Maritime College, Australia for training the aspirants leading to the award of the following Diploma Certificates

(i) Advanced Diploma of Applied Science awarded by the University of Tasmania, Australia.

(ii) Certificate of competency as Watch Keeper Deck issued by the Australian Maritime Safety Authority.

2.1. Further the Trust entered into another agreement with New Zealand Maritime School, New Zealand for imparting training leading to the award of the following certificate / degree :

(i) New Zealand Second Mate Foreign Going Certificate of Competency

(ii) Maritime Engineer Class 3 Certificate in Competency for Graduate Engineers.

3. The Ld.CIT issued letter dated 05.08.2014, in response to which, the Ld.AR appeared and submitted the unaudited receipts and payments account for the year ended 31.03.2014 and other details. The Ld.CIT observed that Sea World Maritime Academy, Visakhapatnam is giving training and coaching, thereby preparing the students who enrolled in the academy for giving exams for the above mentioned Diploma / Certificate courses. The Diploma / Certificates are awarded by Australian Maritime College and New Zealand Maritime School, but not the academy of the Trust. The Ld.CIT further observed that the main object of the Trust is to give training and coaching to the enrolled students, therefore, training and coaching given by the assessee Trust is not resulting in any formal education of degrees or certificates by the academy of the Trust or the recognized universities of India or the institutions. Therefore, the Ld.CIT held that not imparting any education which has common element of any schooling is not entitled for registration u/s 12A of the Act, even there is no profit motive. The Ld.CIT relied on the decision of Hon'ble High Court of Bihar in the case of Institute of Mining & Mine Surveying Vs. CIT [208 ITR 608] and the decision of Hon'ble High Court of Uttarakhand in the case of CIT Vs. National Institute of Aeronautical Engineering Educational Society [315 ITR 428] and accordingly rejected the registration u/s 12AA of the

Act. The Ld.CIT further examined the income and expenditure account and found that the assessee trust has collected the fees for various courses for the period ended 31.03.2014 as under :

DME Course Fee	-	Rs.9,70,000/-
GES Course Fee	-	Rs.41,90,000/-
GME Course Fee	-	Rs.19,50,000/-

The Ld.CIT observed from the income and expenditure account, the net surplus of Rs.9,66,406/- which gave the impression to the Ld.CIT that the academy is being run on commercial basis, charging substantial fee to earn profits, thus, held that the decision of High Court of Uttarakhand is also applicable in the case of the assessee. The, Ld.CIT further observed from the objects of the assessee Trust that the assessee has not placed any material to indicate that public in general are getting benefited by the Trust. Accordingly, the Ld.CIT viewed that the assessee Trust is not a fit case for granting registration u/s 12AA of the Act, accordingly rejected the same.

4. Against the order of the Ld.CIT, the assessee filed appeal before this Tribunal. During the appeal hearing, the Ld.AR argued that the assessee is charitable institution rendering educational services to the public at large.

The assessee is not a coaching institute and it is imparting training and education as per the curriculum of Australian Maritime College (AMC). The training as per the guidelines given by the AMC are resulting in Pre-sea training of Deck Cadet, Sea going training of 18 to 24 months and Advanced Diploma studies at AMC, Australia for 9 months. Apart from the above New Zealand Maritime School also has agreed to offer jointly approved training programmes awarding Diplomas or Certificates to the trainees. The Ld.AR further stated that there is no profit motive involved in imparting training. The Ld. AR placed paper book and submitted that during the year under consideration, the assessee had received the total receipt of Rs.71.73 lakhs, out of which the surplus was only Rs.9.66 lakhs less than 15% of the gross receipts and more than 85% was spent for charitable purposes, thus, argued that there is no profit motive involved in the activities of the assessee trust. The Ld.AR argued that as per the objectives of the Trust, it is a charitable Trust imparting education, hence, requested set aside the order of the Ld.CIT and to grant the registration u/s 12A of the act.

5. On the other hand, the Ld.DR argued that the institution is running on commercial lines and it is charging huge fee from the students as evidenced

from the Profit & Loss account filed by the assessee. Further, the Ld.DR argued that it is purely conducting coaching classes for their students in the name of Sea World Maritime Academy and training their students. The institute is not affiliated to any of the institutions in India i.e. either schooling, pre university or university modes, thus, the coaching or education given by the Trust / academy is not resulting in any formal education, therefore, argued that the activities of the assessee Trust cannot be treated as charitable activities and accordingly argued that no interference is called for in the order of the Ld.CIT.

6. We have heard both the parties and perused the material placed on record. Though the objectives of the Trust are charitable and the Trust is established in 2009-10 with the objects of running and developing Merchant Navy Educational Institution for the purpose of educational service to the public in general and more particularly to all the poor minority communities, SC, STs who are living in village, town, cities, who suffer from social and economic backwardness and thereby to pave way for their social and economic development. The assessee did not place any evidence to show that the assessee has got admitted the students as per the

objects mentioned in the Trust Deed. The assessee is having lot of objects as under :

*“To establish, maintain run and develop Merchant navy educational Institution for the purpose of educational service to the public in general and more particularly to all the poor minority communities, Scheduled castes, Scheduled Tribes who are living in village town cities, who suffer from social and economic backwardness and thereby to pave way for their social and economic development. In order to achieve the have objects the trust intends to establish and run the maritime Institution in the name of Sea World Maritime Academy at Visakhapatnam. Smt. K Saritha and Sri K.V.S.Sridhar will be directors for the Institute and both of them are authorised to open any account with any bank to be mutually decided and they will be authorised to operate the account jointly and or severally. The academy will run under KANDUKURI BANGARAMMA EDUCATIONAL TRUST and will not carry out any activity with the intention of earning profit.*

*b) To develop self discipline, based on social behaviour which will lead to support the society and to become progressive citizen.*

*c) To develop leadership qualities and self confidence by acquiring required educational/professional qualification.*

*d) To generate confidence, knowledge and experience in building up individual personality which will promote self employment thereby reducing burden on the Government and in turn reducing long waiting list in the employment exchanges.*

*e) To promote good neighbour behaviours, secularism through adult education and by taking up other projects.*

*f) To encourage sportsmen and create confidence in ladies in general and war widows in particular to enable them to undertake cottage/self/employment projects.*

*g) To develop art & culture which will suit the Indian society on the modern line.”*

6.1. From the P&L account and the submissions of the Ld.AR made during the appeal hearing, it is mainly engaged in giving various coaching / courses and collecting exorbitant fees. As per available information on records, the course conducted by the institution are not approved by the DG Shipping for giving continuous discharge certificate. As per the information available on record, there was a complaint against the academy that this institution, Sea World Maritime Academy indulging in cheating innocent students. As submitted by the Ld.DR, during the appeal hearing, none of the courses are recognized by the University Grants Commission or by the Govt. of India, or the state Boards such as Schooling Boards, Intermediate Boards etc. The Ld.AR did not place any evidence to establish the recognition of University Grants Commission or by the Govt. of India, or the state Boards for the courses offered by the assessee. The AMC is Australian Maritime College, Australia, which is not affiliated to any Indian Universities and it is stated to be affiliated to the University of Tasmania. Similarly, New Zealand Maritime school is also awarding the certificates. Sea World Maritime Academy is approved institution of AMC and New Zealand Maritime school as per the letters placed in paper book page No.16 to 19, but not an affiliated institution of the universities in India. Therefore, it is observed from the facts of the case that the assessee is



a coaching institution which is not imparting any formal education resulting in degrees awarded by the recognized schools/universities of India. The assessee relied on the decision of ITAT, Delhi in the case of Vidyadayani Shiksha Samiti, Roorkee, which is running schools and colleges, whereas in the instant case, the assessee is neither running schools nor colleges which are affiliated to Indian institutions/organisations. The institution is giving coaching and imparting trainings as per the guidelines of AMC and New Zealand Maritime School, New Zealand for appearing for their exams. Therefore, we hold that the case of the assessee Trust is squarely covered by the decision of Hon'ble High Court of Bihar in the case of Institute of Mining & Mine Surveying (supra) and accordingly not entitled for registration u/s 12AA of the Act. Therefore, we do not see any reason to interfere with the order of the Ld.CIT and the same is upheld.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 27<sup>th</sup> September, 2019

<p>Sd/-  <b>(वी.दुर्गा राव)</b>  <b>(V. DURGA RAO)</b>  <b>न्यायिक सदस्य/JUDICIAL MEMBER</b>          विशाखापटणम /Visakhapatnam          दिनांक /Dated : 27.09.2019          L.Rama, SPS</p>	<p>Sd/-  <b>(डि.एस. सुन्दर सिंह)</b>  <b>(D.S. SUNDER SINGH)</b>  <b>लेखा सदस्य/ACCOUNTANT MEMBER</b>          विशाखापटणम /Visakhapatnam          दिनांक /Dated : 27.09.2019          L.Rama, SPS</p>
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आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee - M/s Kandukuri Bangaramma Charitable Trust, 204, 1<sup>st</sup> Floor, Vyshnavi Legend Apartments, Akkayyapalem, Visakhapatnam
2. राजस्व/The Revenue – The Commissioner of Income Tax-2, Visakhapatnam
3. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 4.गार्ड फ़ाईल / Guard file

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आदेशानुसार / BY ORDER

Sr. Private Secretary  
 ITAT, Visakhapatnam