

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

Before Sh. A. D. Jain, Vice President

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 1849/Del/2020

Haryana State Remote Sensing Application Centre, CCS HAU Campus HARSAC, New Campus Hisar, Hisar-125004	Vs	CIT(Exemption), Chandigarh
(APPELLANT)		(RESPONDENT)
PAN No. AAAAH1766M		

Assessee by : Sh. K. Sampath, Adv.

Revenue by : Sh. Meenakshi Goswami, CIT DR

Date of Hearing: 28.10.2021

Date of Pronouncement: 28.01.2022

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(E), Chandigarh dated 21.09.2020.

2. Following grounds have been raised by the assessee:

"On the facts and in the circumstances of the case and in law the order of the Id. Commissioner of Income Tax (Exemption), Chandigarh, rejecting the application for grant of registration made u/s 12AA(1)(b)(ii) of the Income Tax Act, 1961 is arbitrary,, misconceived, fallacious and illegal which must be quashed with further directions to grant the registration as sought."

3. The assessee society has filed application in Form No. 10A on 21.03.2020 seeking registration u/s 12A of the Income Tax Act, 1961.

4. The application reveals that the assessee is a society created on 26.02.1986. The objects of the society are to undertake, promote, guide, research and development in the field of remote sensing, to carry on the service and development work for the preservation of environment by optimizing the land use and natural resources. It also provides the complete statistics and the data with their research analysis to various government organization and department with their training and education covering the preservation of environment and advancement of any other general public utility in accordance with the section 2(15) of the Income tax act, 1961. The assessee has submitted that HARSAC was established by the Department of Science and Technology, Government of Haryana in 1986. HARSAC is under the direct control of Science and Technology Department, Government of Haryana and its administrative secretary is the chairman of HARSAC. The governing body of HARSAC consists of nominee of various Government departments and universities by designation not by name. The principal scientist of HARSAC is the director of HARSAC who runs all the activities and responsible for the overall administration of the society. He is also one of the nominated member and principal officer of HARSAC.

5. The Id. CIT(E) held that the society HARSAC is working for Research and Development in the field of remote sensing and is not running any separate educational institution. It is providing

training and educational facilities to the researchers, students and others within the campus of HARSAC.

6. After considering the submissions on record, the Id. CIT(E) observed that the assessee society has been claiming exemption u/s 10(23C)(iiiab) of the Income Tax Act during the previous years. However, under section 10(23C)(iiiab) of the Act, any income received by any person on behalf of any university or other educational institution existing solely for educational purposes and not for purposes of profit and which is wholly or substantially financed by the government is entitled for exemption.

7. The Id. CIT(E) held that the sense in which the word 'education' has been used in section 2(15) as interpreted by the Hon'ble Apex Court in the case of Sole Trustee Lok Sikshan Sansthan (101 ITR 234) is systematic instruction, schooling or training given to the young is preparing for the work of life. It also connotes the whole course of scholastic instruction which a person has received. The word "education" has not been used in that wide and extended sense, according to which every acquisition of further knowledge constitutes education.

8. The Id. CIT(E) held that the assessee was not established 'Solely for Educational Purposes' as mandated by the Section 10(23C)(iiiab) of the Act for claiming exemption under the said provision, the surplus generated by the society during the previous years is taxable. As per the details placed on record, the assessee has had a surplus amounting to Rs.4,27,15,671/- during FY 2015-16, Rs.1,90,16,563/- during FY 2016-17 and Rs.6,77,04,010/- during FY 2017-18. Unless the legitimate tax

against the income as discussed above is paid, the application for registration u/s 12AA of the Act cannot be considered. The society/trust has illegally taken the benefit of provisions of the Income Tax Act for getting tax exemption benefits and has tried to subvert the Income Tax laws. This act of the applicant is unacceptable and the jurisdictional assessing officer will be intimated to take remedial action in the matter.

9. The Id. CIT(E) has refused registration drawing upon the observations of the Hon'ble Apex Court in Sole Trustee, Lok Shikshan Sansthan 101 ITR 234. The Id. CIT(E) has held that since only systematic instruction, schooling and training given to the young is education the Appellant does not qualify as a Charitable entity under the head education. While doing so, the Id. CIT(E) has mainly gone by the language of section 10(23) (iiiab) of the Act to refuse registration.

10. Before us, it was submitted that the Id. CIT(E) has erred in his approach and reasoning while denying the registration. While considering an application for registration u/s 12AA of the Act, the Id. CIT(E) could not have applied the yardsticks applicable to section 10(23C) (iiiab) of the Act. An application u/s 12AA of the Act is based on the examination of the activity being for any or all the four pursuits as set out in the said section. These are education, medical relief, relief of the poor or any other object of the general public utility. Thus, the action of the Id. CIT(E) in limiting his scrutiny to education alone is at once wrong. Further, injecting the rigor of section 10(23C) (iiiab) into section 2(15) of the Act was most unwarranted and palpably erroneous and wholly superfluous.

11. It was argued that as to education, the courts in later decision have held that the observations of the Hon'ble Supreme Court in Lok Shiksha Sansthan limiting the amplitude of the word education were in the context of specific cases. The Hon'ble Gujarat High Court considered the entirety of this issue as to what constitute education in terms of 2(15) of the Act in Gujarat State Cooperative Union vs. CIT 195 ITR 279 and ruled that the provision of any education simplicitor would fall under the ambit of definition u/s 2(15) of the Act.

12. Recently, the Hon'ble Delhi High Court also considered the meaning of the word education in the context of dissemination of knowledge and training provided by professional bodies. This was in the decision DIT(E) vs. Institute of Chartered Accountants of India 347 ITR 86. After considering the Hon'ble Apex Court decision in Sole Trustee Lok Shiksha Sansthan and Others, the Hon'ble High Court ruled that the Institute of Chartered Accountants of India which is neither a school nor a university could still be held to be providing education in the sense of the section 2(15) of the Act. The following observations in the HN of the case are illuminative and instructive.

"The Institute of Chartered Accountants of India was denied exemption under section 10(23C)(vi) for the assessment year 2006-07 onwards on the grounds that (i) the Institute was holding coaching classes and, therefore, was not an educational institution as per the interpretation placed on the work "education" used in section 2(15); (ii) the institute was covered under the last limb of charitable purpose, i.e. advancement of any other object of general public utility. In view amendment

made in section 2(15) of the Act with effect from April 1, 2009, for the assessment year 2009-10 onwards, the Institute was not entitled to exemption as it was an in which conducted an activity in the nature of business and also charges fee or consideration. It was earning a huge pro IS systematic and organized manner and, therefore, it was no institute existing for charitable purposes under the last limb of Section 2(15) of the Act; and (iii) the Institute had advance interest-free loan to a sister concern, namely, the Institute Chartered Accountants of India Accounting Research Foundation of Rs. 565.20 lakhs. On a writ petition against the order:

Held, that the fundamental or dominant function of the Institute was to exercise overall control and regulate the activities of the members/enrolled chartered accountants. A very narrow view had been taken that the Institute was holding coaching classes and that this amounted to business. The Institute had framed the Chartered the Chartered Accountants Regulations, 1988, and the Regulations provided for training of students, their examination, award of degrees and membership of the Institute. There was a clear distinction between coaching classes conducted by private coaching institutions and courses and examinations earned on business had not been examined with proper perspective. The Institute maintained that it never granted any loan and/or advance to the Institute of Chartered Accountants of India Accounting Research Foundation. The facts regarding this question had not been considered. The order denying the exemption was not valid."

13. The Id. AR has brought to our notice a standing agreement with Guru Jambheshwar University of Science and Technology, Hisar. That agreement provides as under:

"The Vice Chancellor in exercising his powers under section 11.5 of Guru Jambheshwar University Act, 1995, has been pleased to approve to start the 2 years M. Tech. (Geo-informatics) course w.e.f. session 2009-10 in collaboration with HARSAC, Hisar on the terms & conditions contained in the MoU signed on 11.8.2009 between GJUS&T, Hisar and HARSAC authorities with an intake of 30 in anticipation of approval of Executive Council. The annual fee for this course will be Rs.60,000/- plus the refundable security of Rs.2000/- and health insurance charges of Rs.60/-."

14. In this way the assessee society provides M. Tech degrees in Geo-Informatics to the aspirants to that course.

15. As to the activities of the appellant in the past, there are assessment orders for AY 2016-17, AY 2017-18, AY 2018-19 in which the appellant has been found to be providing education. In the AY 2019-20 the benefit of exemption u/s 11 of the Act has been refused due to the impugned order affecting the status of the appellant as not charitable.

16. The assessee provides education and training in the field of remote sensing for preservation of environment through optimization of land use and natural resources. It provides specialized post-graduate degree courses in that subject in

association with a recognized university. There is thus no doubt as to its mission for providing education. The Hon'ble Apex Court decision in Aditanar Educational Institution vs. Addl. CIT 224 ITR 310 supports this plea. It will, therefore, be clear that the objectives of the appellant certainly constitute education for charitable purpose as understood u/s 2(15) of the Act.

17. From the above, we find that for the Assessment Years 2016-17, 2017-18 and 2018-19, the assessee was found to be providing education. There is also no dispute that the assessee is providing specialized Post-Graduate degree courses. Hence, as per the provisions of the Income Tax Act, we hold that the assessee is eligible for registration u/s 12AA of the Act.

18. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 28/01/2022.

Sd/-

(A. D. Jain)
Vice President

Dated: 28/01/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR