

Non-availability of ads of medical relief camps provided by trust won't lead to denial of its registration

Summary – The Delhi ITAT in a recent case of Lal Bahadur Shastri Bahuudeshya International Society., (the Assessee) held that where assessee-society was carrying out charitable activities by organizing medical relief camps for underprivileged sections of society, it could not be refused registration under section 12A on grounds that there was no evidence of holding such camps by way of advertising, etc., or that it did not have complete address of persons getting relief through such camps

Facts

- The assessee-society, engaged in organising free medical camps for deprived section of the society, claimed registration under section 12A.
- The Commissioner denied registration under section 12AA by holding that there was no evidence of organizing camps by way of advertisement, publicity or otherwise; the registers maintained for that purpose did not have even a single complete address; doctor's certificate prescribing medicines in bulk made no sense since the medicines were available without prescription; there was no clear relationship between prescribing doctor 'S' and Doon Trauma Centre which claimed to be associated with the noble cause undertaken by the assessee-society for providing medical relief to the deprived sections of the society; and Dr. L of Doon Trauma Centre was not able to clarify as to how many camps were attended by him. In the light of above facts, the Commissioner opined that the primary claim of the assessee in providing medical relief was not substantiated.
- On appeal:

Held

- There is no dispute on the fact that the assessee was carrying out charitable activities by organizing medical relief camps for the underprivileged sections of the society. The first reason given by the Commissioner for denying registration is that the assessee did not have any evidence of holding camps by way of advertising, publicity or otherwise. There is no bar under the law to organize medical relief camp without issue of advertisement or publicity. The essence of the matter is that charitable activities should be pursued and the manner of conducting such activities cannot be prescribed by the revenue. The second reason given by the Commissioner for denying registration is that the register did not have a single complete address which could help him to verify the genuineness of the relief camps. On this score, it was found that the assessee did file a register before the Commissioner which had the necessary details under three broad heads, *viz.*, treatment, attendant's name and subscription. When such details were available, the Commissioner ought not to have denied registration for lack of complete address. Ordinarily, when camps are organized in far flung places, such as, villages, etc., the name of the village itself represents the address of the persons getting treatment. The next reason for not granting registration is that the doctor's

certificate prescribing medicines in bulk made no sense since the medicines were available without prescription for common diseases. This reason cannot come in the way of refusing registration when the assessee is otherwise engaged in carrying on charitable activities. The other point, being that Dr. S was attending the camps on honorary basis and all the test reports filed before him stated so, does not bring the case of the Commissioner any further justifying the registration. Insofar as the connection between Doon Trauma Center and Dr. L is concerned, it is seen that Dr. L gave a certificate, indicating his privilege of being associated with the assessee-society imparting medical relief to the underprivileged sections of the society. In view of the foregoing reasons, the Commissioner did not have any justifiable reason to refuse registration to the assessee-society which was otherwise engaged in doing charitable activities.

- The revenue submitted that section 12AA empowers the Commissioner to conduct inquiries in order to satisfy himself about the genuineness of activities of the trust and in the instant case, the Commissioner was not beyond his powers to conduct such inquiries about the activities of the trust, which divulged that the assessee was not engaged in charitable activities. The point argued by the revenue is correct. However, it is relevant to note that such power has been given to him in the backdrop of his jurisdiction to grant or refuse registration, which stage can quite possibly be before the espousing of the actual activities. Law permits an assessee to seek registration before the actual taking up of charitable and religious activities. The inquiry contemplated at this juncture is basically 'objects focused' primarily meant for satisfying himself about the objectivity of the charitable or religious objects of the trust or institution and in order to reach such satisfaction also conduct inquiries which are 'activities focused', if the activities have been embarked upon. The principal focus is on the examination of objects of the trust or institution and 'activities focused' inquiry is only subsidiary or supplementary to the 'objects focused' inquiries. That apart, there are sufficient safeguards under the Act to turn heat on the assessee and protect the exploitation of the benefit of grant of registration, if the assessee fails to comply with the necessary requirements after securing such registration. Provisions of section 11, read with section 13, are there to take away the benefit of exemption otherwise available under section 11 pursuant to grant of registration under section 12AA. Even sub-section (3) of section 12AA is in the nature of another protection, which unequivocally empowers the Commissioner himself to cancel the registration of trust or institution after his granting the same under sub-section (1), if he is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be. This power given under section 12AA(3) is wide enough to have a check on the societies which are otherwise registered as charitable but not pursuing such activities as per law. It, thus, follows that the focus of investigation at the stage of grant of registration is chiefly on the objects of trust or institution.
- In the instant case, there is no doubt about the charitable objects of the assessee. No 'object focused' investigation by the Commissioner yielded any results jeopardizing the charitable character of the assessee. Even the Commissioner has not made out a case on this line. The 'activities focused'

inquiries conducted by the Commissioner do not in any manner whatsoever thwart the charitable objects of the assessee. This leads to irresistible conclusion that the refusal to the grant of registration by the Commissioner led to the miscarriage of justice. Therefore, the impugned order is overturned.