

Registration to a trust couldn't be denied on ground that it was involved in only one object out of its total objects

Summary – The Delhi ITAT in a recent case of Swami Dayanand Educational Trust., (the Assessee) held that where assessee-educational trust undertook only one activity of running of school out of 21 objects for charitable purposes and it was charging reasonable fees from students and it also gave concession to poor and deserving students, registration of trust under section 12AA was to be granted

Facts

- The assessee trust was created and registered with Joint Registrar under the Public Trust Act in the name and style of Educational Trust. The assessee filed an application for registration under section 12AA before the Commissioner.
- The Commissioner held that the assessee trust failed to substantiate its claim that its aims and objects mentioned in the Memorandum of Association were charitable in nature and the assessee could not produce any conclusive evidence to prove the genuineness of the activities of the trust despite sufficient opportunities accorded to the assessee. The main objections of the Commissioner were that the assessee had undertaken only one object of running the school out of 21 objects, and all the trustees appear to be from one family/relatives, and the trust could be dissolved by 3/4 majority of trustees and, therefore, trust was not irrevocable and the trust deed provides for amending the trust which could not be provided. Consequently, the Commissioner, rejected the application of the trust for registration under section 12AA.
- On appeal:

Held

- The Commissioner was not justified in rejecting the application of the assessee for grant of registration under section 12A of the Act as he considered irrelevant facts and material while rejecting the application of the assessee. Finally, it has been considered that as per objects of the applicant trust, if only one activity of running of school for charitable purposes is being undertaken and other activities are not being carried out, then this cannot be a basis of rejection of registration under section 12A. So far as the charging of fee is concerned, if assessee trust is charging fees from the students to meet day-to-day expenses of the school which is in accordance with the prescribed rule of the State educational department, then it cannot be alleged that the assessee trust is earning income from fees beyond the ambit of charitable activity as per trust deed. The Commissioner has not demolished this contention of the applicant that the trust is charging reasonable fees from students and it also gives concession from time to time to the poor and more deserving students. At the time of grant of registration, the Commissioner is not required to act as the Assessing Officer,

especially when the concerned Assessing Officer has passed an assessment order under section 143(3).

- On the basis of discussion, the view is that the Commissioner rejected an application for registration under section 12AA without any justified reason and basis despite the fact that the objects of the applicant trust are charitable and no allegation has been brought out on record by the Commissioner that the assessee is conducting activities beyond its object as per trust deed or fees and donations are being used for the activities which are not charitable and beyond the ambit of the objects of the assessee applicant trust, hence, the Commissioner is directed that the applicant trust should be granted registration under section 12A and, accordingly, the Commissioner is directed to grant registration to the applicant trust as per relevant provisions of the Act.