

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No. 465/Bang/2023
Assessment year : NOT APPLICABLE

Sampark Livelihoods Promotion Trust, No.39, 1 st Avenue Teachers Colony, 1 st Block, Koramangala, Bengaluru – 560 034. PAN: AAOTS 0338M	Vs.	The Commissioner of Income-tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri Madhusudhan K. Cost Accountant
Respondent by	:	Shri D.K. Mishra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	03.08.2023
Date of Pronouncement	:	08.08.2023

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the DIN & Order No.ITBA/EXM/F/EXM45/2023-24/1052236733(1) dated 20.4.2023 of the CIT(Exemptions), Bangalore on the following grounds:-

“1. The appellant does not believe that it has to inform CBDT under section 11(1)(c) as section 11 is not applicable to it for earlier periods.

2. All other provisions of the IT Act would apply as if it an AOP and not as a charitable trust. The question of

seeking approval from CBDT under section 11(1)(c) does not arise.

3. In spite of pointing out that the Appellant was carrying on activities and filing returns as an AOP, and paying taxes, the Assessing Authority has raised frivolous objection and has denied registration under section 12AA of the Act, although the Appellant fulfils all conditions required to obtain the registration.”

2. The brief facts of the case are that the assessee is a trust registered under the Indian Trusts Act, 1882 on 26.03.2014. The assessee filed application in Form 10A on 28.04.2021 along with documents for obtaining registration u/s. 12AA. A provisional registration was granted on 28.05.2021 . Thereafter the assessee filed application in Form 10AB for registration u/s. 12AB of the Act. The CIT(Exemptions) [CIT(E)] issued notice and the assessee filed certain details. On verification, it was noticed that the assessee carried out the activities outside India and expended funds on the following projects:-

- (i) Study on Girls Landscaping in Nepal, Bangladesh and Pakistan.
- (ii) Flamingo Research study with Adolescents Girls in Nepal & India.
- (iii) UNDOC: Rehabilitation and Empowerment of Nepali Women.

3. The assessee was provided opportunity to provide a copy of the Special Order of the Board for conducting activities outside India. The assessee submitted that the trust has undertaken many projects relating to general public utility. Since some of the activities were conducted outside India, it has been filing returns as AOP and paying taxes regularly. The trust has not undertaken any activities outside India

during those years and therefore trust has not sought permission u/s. 11(1)(c). The trust undertakes to seek permission for spending for trust activities in India during next two years. The CIT(E) observed, however, in order to carry out activities outside India, permission is required from the Board as per section 11(1)(c) of the Act. Since the assessee failed to produce the permission from the Board and other documents regarding genuineness of the activities of the trust and compliance in terms of section 12AB(1)(b)(i & ii) of the Act, the application for registration u/s. 12AB was rejected by the CIT(E). Aggrieved, the assessee is in appeal before the Tribunal.

4. The ld. AR submitted that section 11(1)(c) of the Act is not applicable in the present facts of the case because the assessee has not undertaken any activities outside India. He referred to the trust deed as well as activities carried out by the trust placed at pages 21 to 34 of the Appeal Set (AS). He also referred to the objects clause of the trust deed which are in the nature of charitable activities and submitted that the assessee has never claimed any exemption in its returns and paid taxes on the income earned every year. Therefore registration should be granted to the assessee.

5. The ld. DR relied on the orders of the lower authorities.

6. Considering the rival submissions and perusing the material on record, we note that the assessee has been granted provisional registration and the assessee filed application in Form 10AB for regular registration which has been rejected by the CIT(E) stating that

the assessee has not followed the provisions of section 11(1)(c) and not complied with the requirements of the provisions of the Act as well as failed to prove the genuineness of the activities of the trust. We have gone through the documents placed at pages 29-34 of the PB containing the photographs and summary of the activities of the trust within India as well as outside India as narrated. For the activities outside India, it is mandatory to obtain necessary approval as per section 11(1)(c) of the Act which has not been complied by the assessee. In the preamble of the trust deed there is a specific clause which states as under:-

“4. THE OBJECTIVES OF THE TRUST

The Trust is promoted with the specific objectives of promoting the livelihoods of the poor, both in urban and rural areas. The Trust will help to plan development and poverty reduction projects at national and international levels. It will help to shape policies to be pro-poor. It will help those who wish to engage with reduction of poverty, vulnerability and removal of unacceptable forms of work in India and other countries.”

7. The activities of the trust at pages 39 to 34 include international projects as under:-

- “5. Study on Girls Landscaping (2015-2017) in Nepal, Bangladesh and Nepal (ongoing).
6. Flamingo Research (2016-2017) study with Adolescents Girls in Nepal & India.
7. UNDOC (2016-2017) : Rehabilitation and Empowerment of Nepali Women.
8. Netherlands CDI Training (2016-2017) International training program on “Designing and Facilitating Multi-stakeholders partnerships (MSPs) for Gender and Youth Sensitive Food Security.
10. UNDP – Myanmar Project (2017-2018)”

8. Permission from the Board is mandatory as per section 11(1)(c) for the above international projects/activities. It is also not clear whether the MAVIM (2017-2018) project is national or international project. Further, there is contradiction in the trust deed since the Preamble states that the income shall be applied for the stated objects of the Trust in India, whereas the object clause at sl. No.4 allows work in India and other countries. We also note from the order of the CIT(E) that the assessee has not submitted documents to prove the genuineness of the charitable activities undertaken by it. Considering the totality of the facts, we confirm the order of the Id. CIT(E).

9. In the result, the appeal by the assessee is dismissed.

Pronounced in the open court on this 08th day of August, 2023.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 08th August, 2023.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.