

ITAT allows Section 12A Registration to a Educational Welfare Society as Leasehold Land and Fee Concession was verified

Fact of the Case

1. In the present case Lord Shiva Education Welfare Society is the Applicant.
2. An application in Form No.10A was filed by the appellant society, Lord Shiva Educational Welfare Society in the office of PCIT(Exp), Chandigarh seeking registration u/s 12A of the Income Tax Act, 1961. The application revealed that the society is an ongoing entity that has been in operation since 30.01.2013.
3. Earlier an order under section 12AA of the Income Tax Act was passed by the Commissioner of Income Tax (E), Chandigarh in this case on 30.08.2017 rejecting the application for grant of registration u/s 12AA
4. The applicant trust preferred an appeal before the Hon'ble Income Tax Appellate Tribunal, Amritsar against the order of the Commissioner of Income Tax (E), Chandigarh. The Hon'ble ITAT, Amritsar has restored back the case of the applicant trust for fresh consideration.
5. The Department while rejecting the application has contended that as the character of the school is commercial per se and is hit by the provisions of Section 2(15) of the Act, giving fee concessions to some of its students would not take aware the commercial character of the school/society. Since the primary issue of the society/school remains to be commercial with the profit motive through commercial agreement, the admissions of certain poor students by giving them fee concessions would not undermine the non-charitable character of the society.

Decision of the Case

1. The coram of Judicial Member Lalit Kumar and Accountant Member Dr. M. L. Meena held that nothing has been doubted and for the purpose of 12A, only two conditions are to be required to be satisfied that one with regard to the activities of the trust and the second with regard to the aims & objects of the society as per the decided case laws on this issue which have been addressed in favor of the assessee by the earlier order of the Coordinate Bench.
2. The Amritsar Bench of Income Tax Appellate Tribunal (ITAT) allowed Section 12A Registration to an Educational Welfare Society as leasehold land and fee concession was verified.