

**AO can't deny sec. 11 benefits to trust in case of capitation fee violation as long as Sec. 12A certificate is in force: HC**

**Facts of the case - Kammavari Sangham v. DDIT (Exemptions) - [2023] (Karnataka)**

Assessee, a trust, was running an educational institute. During the relevant assessment year, assessee received money as capitation fees (donation) and disclosed the same in the Income and Expenditure account. The assessee claimed exemption under section 11 with respect to the capitation income while filing return of income.

During the assessment proceedings, the Assessing Officer (AO) proclaimed that the said capitation fees were received by the assessee in violation of the Karnataka Educational Institution Act, 1984, and denied the exemption under section 11.

On appeal, CIT(A) upheld AO's order which was subsequently ratified by the Tribunal. The matter then reached the Karnataka High Court.

**Decision of the case :**

- The Court held that the person giving voluntary donation can make such contribution either with specific direction or otherwise. Section 11 deals with the donations made with specific directions. The section specifies that the donations made with any specific direction shall form part of the corpus. However, no such provision has been prescribed for the donations made without any specific direction.
- In this particular instance, the exemption under section 11 was denied on the fact that the donations received are not voluntary in nature and thus in the violation of Karnataka Educational Institution Act, 1984.
- The Court held that the AO cannot deny the benefit under section 11 until the registration certificate is cancelled. This benefit can be claimed by the assessee as long as the registration is in force. The contention that the capitation fees received violates other Act cannot be a basis for disallowance under the Income Tax Act. It is a matter of consideration under the above-mentioned Act which needs to be considered by the appropriate authority under that Act.
- Since the registration certificate was in force, exemption under section 11 cannot be denied to assessee-trust.