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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**ITA-54-2020 (O&M)**

**Date of Decision: 17.09.2024**

COMMISSINER OF INCOME TAX (EXEMPTIONS), CHANDIGARH

. . . . Appellant

**Vs.**

M/S UNIQUE EDUCATIONAL SOCIETY

. . . . Respondents

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**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA  
HON'BLE MR. JUSTICE SANJAY VASHISTH**

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Present: Mr. Varun Issar, Sr. Standing Counsel  
for the appellant/Revenue.

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**SANJEEV PRAKASH SHARMA, J.(Oral)**

**CM-13193-CII-2024**

Application under section 51 of CPC has been filed by the  
appellant to place on record documents Annexure A-1 to A-3.

Application is allowed and the documents are taken on record.

Registry to place the same at appropriate place.

**CM-13886-CII-2024**

Application filed by the appellant for waiving the cost on the  
officer in-charge concerned is dismissed.

**Main case**

1. Counsel for the appellant was heard on merits.
2. This is an appeal preferred by the Revenue against the order passed by  
the ITAT dated 06.08.2019 whereby the appeal of the respondent-



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Unique Educational Society (appellant therein) was allowed, and the order passed by the CIT(E) refusing to register the respondent-Society under section 12A read with section 12AA of the Income Tax Act, 1961 vide its order dated 30.06.2018 was set aside.

3. The respondent-Society had applied for registration pleading that it was running a private Industrial Training Institute imparting vocational training to the students, and the same was duly affiliated and regulated by National Council for Vocational Training (NCVT).
4. The application was rejected by the CIT(E) on the ground that gaining of knowledge or skill does not qualify for the label 'education' and does not come within the four corners of education as defined in the case of *Sole Trustee Loka Shikshana Turst vs. Commissioner Of Income Tax (101 ITR 234)*.

It further observed that 'education' would not be considered in the wide and extended sense, and acquiring of technical knowledge would not constitute education. Mere skill enhancement does not involve systematic education.

5. The second ground for rejection was that the assessee-Society did not partake the character of voluntary donations, and the income received from the property cannot be said to be vested in the trust for charitable purpose. The contributions towards corpus fund had not been corroborated. The third objection was with regard to purchase of two cars by the society alleged to be meant for personal use of the members of the



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society, and they could not be said to be of benefit of general public, and utilization of the funds was not for charitable purposes.

6. The Tribunal rejected the contentions and found that the institute was providing computer operator programming course, fitter course, painter general course and electrician course. It found that as per the Government of India, Ministry of Labour and Employment, the Committee approved affiliation upon recommendations of the NCVT. In the list of such institutions which have been approved, the name of Mahatma Gandhi Private ITI, district Yamunanagar run by the society is placed at number one. The Government of Haryana has also given approval to the society for establishment of the private Industrial Training Centre in the name and style of 'Mahatma Gandhi Industrial Training Centre', and has granted affiliation from the State Council for Vocational Training.
7. After being convinced, the Tribunal proceeded to pass orders directing the CIT(E) to register the society under Section 12A and 12AA of the Act.
8. Learned counsel for the appellant was asked as to whether the Government reimburses the amount to the respondent-society under the Skill Development programme, and an affidavit has been filed stating that of the total receipts of Rs.93,06,599.50/-, amount of Rs.9,51,500/- was reimbursed towards the training fees under the Pradhan Mantri Kaushal Vikas Yojana. The affidavit therefore reflects that the institute is imparting training for implementation of one of the welfare schemes of the Central Government.



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9. Learned counsel has contended that training is not a systematic training and the ITAT has erred in directing the registration of the society under Section 12A and 12AA of the Act. He has also relied on the judgment passed by the Kerala High Court in *Commissioner of Income Tax, Kottayam vs. M/s Annadan Trust, [2018] 258 Taxman 54 (Kerala)*.
10. We have considered the submissions.
11. For carrying out educational activities and charitable activities, the Tribunal has observed as under:

*“4. Further, as per letter dated 23.12.2016 of the Ministry of Skill Development & Entrepreneurship, New Delhi, the appellant has been empaneled as Assessing Body under Modular Employable Skills. The Ld. Counsel for the assessee, therefore, has submitted that the appellant has been running the vocational training course in a systematic manner and is affiliated and regulated by NCVT as well as SCVT, Haryana. That the examinations are conducted on national level and Diploma equivalent to 10+2 degree is awarded by the NCVT. That the courses run by the appellant being for promotion of skill development and training, class rooms teaching and trainings are designed for generation of employment opportunities for village youths and the same have been duly recognized by the state government as well as Central Government. We are convinced that the vocational educational training programme run by the appellant society are systematic programme imparting class room as well training with focus on employment generation. The education given by the appellant, in our view, can safely be said to be in the mode of systematic instructions / schooling or training given to the young in preparation for the work of life and,*

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*in our view, duly fall within the purview and scope of the term 'Education' as used in section 2(15) of the Act.*

*5. So far as the observation of the CIT(E) that the income of the assessee is not from voluntary donation or that the same cannot be said to be income from property held under the trust is concerned, we are not convinced with the above observation of the Ld. CIT(E) for rejecting the claim of the appellant trust. The appellant trust is reimbursed the amount spent by the Government for carrying out its 'education / training programme as per the skill development programme of the Government. Thus, in our view, it can be safely said to be income generated from the activity of the appellant trust and the said activity as observed above, falls within the purview and scope of charitable purpose. It is not be case of the CIT(E) that the major or main activity of the appellant trust is towards commerce or business. The receipt of income, in our view, is in the course of carrying out of 'Educational activity of the assessee.*

*6. The third objection raised by the Ld. CIT(E) is that the appellant could not corroborate the receipts towards the corpus funds from the members of the trust with bank entries. In our view, this cannot be ground for rejection of the application u/s 12A of the Act. The appellant has shown the receipts towards its corpus funds from the members of the trust and the same has been duly recorded in the books of account. It makes no difference if the receipts were received in cash or through banking channel. Moreover, whether the receipts are towards corpus funds or for application is to be seen at the time of assessment.”*

12. The Kerala High Court in *Commissioner of Income Tax, Kottayam* (supra) has held as under:



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*“6..... However, when a particular institution, as in the above case, is involved in implementation of welfare schemes of the Government, we cannot find any charity in that. The mere assertion that there is no profit motive will not suffice especially when for implementing the schemes the assessee takes money from the State Government or the intermediary. The further contention that surplus is applied in the deficit of other program is a perfect ground for claiming business expenditure, but not to get a registration as a charitable institution.*

*7. In deciding the issue, it is very pertinent that the intermediary institution, has paid money for the implementation of the Schemes. The implementation of such Schemes would not lead to any charitable activity by the respondent-assessee entitling registration under Section 12AA. The transaction as admitted by the assessee is not one which would enable registration under Section 12AA. The proceedings were initiated for cancellation, on the report of the AO that the objectives of the Trust has been departed from and the assessee is carrying on business as sub-contractor; implementing the welfare schemes of various State Governments, supplying food to the poor school children. It was also reported that there was net profit earned from the sub-contract; which funds were accumulated to the Trust fund, without any charitable activity being carried on. The assessee also did not proffer any evidence as to a charitable activity carried on other than asserting that from its inception the activity of the assessee was of feeding the poor. However this activity was, as an implementing agency of the State Governments, on funds earmarked and disbursed by the State Government. There is no charity in implementation of welfare schemes of the Government, with the funds of the*



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*State. Charity of the right hand, it is said, shall not be disclosed to the left hand. Here, the welfare measure of the State implemented with State funds is claimed as charity by the implementing agency, who receives consideration for such implementation.”*

13. The Supreme Court in ***New Noble Educational Society vs Chief Commissioner of Income-Tax and another;*(2022) 448 ITR 594** has held as under:

*“16. While answering questions of law nos. 1, 3 and 4 (supra), we find that essentially the ITAT has held the order passed by the CIT cancelling the registration on 02.03.2010 to be without jurisdiction and without authority in law. It has stated so as the amendment was made in Section 12AA(3) of the Act by the Finance Act of 2010 empowering the Commissioner to cancel the registration granted under Section 12A of the Act where it reaches to a conclusion that the activities of the such trust are not genuine and not being carried out in accordance with the objects of the trust or institution. The power was, therefore, not available as on the day when the CIT cancelled the registration i.e. on 02.03.2010.*

17. XXXX XXXX

18. Thus, we find that the facts were almost similar to the facts of the present case as in the aforesaid case *Industrial Infrastructure Development Corporation (Gwalior) M.P. Limited’s case (supra)*, the Commission had cancelled the registration under Section 12A of the Act dated 13.04.1991 by its order dated 29.04.2002 and on 29.04.2002 the Commissioner was not empowered to cancel such registration. In view thereof, the questions of law no. 1, 3 and 4 are answered in favour of the assessee



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*on the basis of judgment in Commissioner of Income-Tax,  
Gwalior (supra).”*

14. In view of above, the law as laid down by the Supreme Court requires to be applied and the view expressed by the Kerala High Court cannot be accepted to be the correct interpretation. We are also of firm view that vocational education is a form of education which is necessary for the development of an individual for the purpose of earning his living. Vocational training has been now recognized to be as important as any other field of education, and it is for this reason that National Council for Vocational Training has been established to streamline and lay down a systematic pattern of providing education. As the institute is duly approved by the NCVT, it cannot be said that the institute is not imparting education.
15. In view of the specific findings of fact arrived at by the ITAT as noticed above, no interference of this Court is warranted. Appeal is thus found to be without merits and the same is accordingly dismissed.
16. All pending applications also stand disposed of.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

**(SANJAY VASHISTH)**  
**JUDGE**

**September 17, 2024**

*Mohit goyal*

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|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable?        | Yes/No |