

M/s. BHOPAL GAS PIDIT PUNARWAS VIBHAG ROGI KALYAN SAMITI, Bhopal

v.

The CIT, Bhopal

(Income Tax Appellate Tribunal, Indore)

HON'BLE JUSTICE SHRI D.T. GARASIA JUDICIAL MEMBER HON'BLE JUSTICE  
SHRI B.C.MEENA ACCOUNTANT MEMBER

Income Tax Appeal No. 604/Ind/2014 | 10-08-2015

PER GARASIA, J.M. This is an appeal filed by the assessee against the order of CIT, Bhopal, dated 13.08.2014, passed u/s 12AA of the Income-tax Act, 1961. The short facts of the case are as under.

2. Bhopal Gas Pidit Punarwas Vibhag Rogi Kalyan Samiti, Bhopal, has applied for registration u/s 12A of the Income-tax Act, 1961. In order to verify the object and activities of the assessee and to ascertain the fulfillment of conditions mentioned u/s 12A, the assessee was given an opportunity of hearing on 17.6.2014. All trusts are required to apply for registration within one year from the date of their creation, but the assessee did not do so as the assessee society was created on 17.08.2005. No regular return was filed for assessment year 2014-15 even though the applicant society has taxable income and income of the society is not -: 3: - 3 exempt under the provisions of the Act. The assessee society is formed by the State Government Employees and having authorized to collect the user charges for In and Out patients. The amount so collected to be used for the purpose of meeting the objectives. It is relevant to mention here that verification of nature of expenses vis-à-vis income a admitted, there is no correlation between them. In other words, the expenses incurred were not for fulfilling the object of the society for the last consecutive financial year, which the applicant has submitted for consideration. The society was consistently creating surplus of 23% and above even after making investment in fixed assets which is liable for taxation. Therefore, the registration u/s 12A was rejected.

3. The Id. Authorized Representative submitted that the objection of the society is to collect Rs. 5/- from outdoor patients of the hospital, who are coming in hospital for taking the treatment and they are collecting the user charges from in and out patients. The amount so collected is used for medical facilities to the patients, who are required in the society. The major expenses of the assessee society is for -: 4: - 4 providing ambulance facilities to the patients. The next object of the trust is to provide free meals to the patients and the relatives of the patients, who are attending to the patients. Moreover, this Society is run by the Minister and the Collector, Bhopal, is the Incharge of this Trust and no public is running this trust and those who are administering this Trust is all Government employees. Therefore, this trust is doing charitable activities and if they are carrying out the charitable activities, they are entitled for registration. Similar hospitals are run by similar types of trusts and their

registration was granted by the CIT. Therefore, similar activities is carried out by this trust. Therefore, the registration u/s 12A must be granted.

4. On the other hand the Id. CIT DR objected to grant of registration on the ground that the assessee is every year creating surplus, which is generated more than 20% even after making the investment in fixed assets. Therefore, the object of the trust is on commercial basis. Therefore, registration may be denied. -: 5: - 5

5. We have heard the rival contentions of both the parties. We find that the society trust has applied for registration and the assessee society is a society formed by the State Government Employees having authorized to collect user charges from in and door 0patients. The amount collected is used for meeting the objective of the assessee. The assessee trust's activities are of charitable nature and we have also verified the accounts of the assessee and from verification of the accounts, we found that they are running the dispensaries and hospitals and major expenses are for running the dispensary and major payments made to Doctors as honorarium and the honorarium payments also made to technical staff for doing their services in the various hospitals, like Kamla Nehru Hospital, Jawaharlal Nehru Chikitsalaya, Khan Shaqir Ali Khan Chikitsalaya and various hospitals. They also run Polyclinic. Therefore, we are of the view that simply on the ground that surplus is generated cannot be criteria for denying the registration u/s 12A. We have also verified the fixed assets as on 31 st March, 2013. They are x- ray machine, water coolers, air conditioners, Ram sets, ECG -: 6: - 6 machine, ceiling fans, and UPS Computers. All are necessary for running the hospital. Therefore, we are of the view that the assessee trust's activities are charitable in nature. Therefore, we allow the application of the assessee.

6. In the result, the appeal of the assessee is allowed. This order has been pronounced in the open court on 10 th August, 2015. Sd/- (B. C. MEENA) ACCOUNTANT MEMBER Sd/- ( D.T.GARASIA) JUDICIAL MEMBER Dated : 10 th August, 2015. CPU\* 17