

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

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No.179/Bang/2019
Assessment year: 2018-19

BWSSB Retired Employees Medical Welfare Association, Room No.911, Kaveri Bhavan, BWSSB, K G road, Bangalore – 560 009. PAN: AAEAB 7561L	Vs.	The Commissioner of Income Tax (Exemptions), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri Devarathna Kumar, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	12.07.2021
Date of Pronouncement	:	12.07.2021

ORDER

Per Chandra Poojari, Accountant Member

This appeal by the assessee is directed against the order dated 26.9.2018 of the CIT (Exemptions) [CIT(E), Bangalore rejecting registration u/s. 12AA of the Income-tax Act, 1961 [the Act].

2. The assessee has raised the following grounds:-

“1. The Learned Assessing Authority rejected the application for Registration U/s 12AA of Income Tax Act, 1961.

2. While rejecting the Application for registration the Learned Assessing Authority stated that "The Object and Activities of the association is for the welfare of its retired

employees, who subscribed to the association and any association wherein the benefits do not ensure for the general public cannot be considered as a Public charitable Trust".

3. However, the Learned Assessing Authority erred in ignoring the very fact that the employees of the organisation post their retirement will not be in a position to bear their cost of medical expenses since most of these retired employees stay in the city of Bangalore where the cost of Medical Expenses is much higher. Therefore, BWSSB retired employee's medical welfare association has been registered to provide medical care to its retired employees and their spouses.

4. The Learned Assessing authority did not consider the fact that Providing Medical Care to retired BWSSB Employees is a Charitable cause and falls within the definition of Charitable Activity and needs to be considered.

5. The Appellant submits that it is pertinent to point here that just because the organisation intends to give medical relief to a particular section of the society it cannot be said that it is not carrying out charitable activities.

6. The Appellant Submits in the Bangalore Urban & Rural District Co-operative Milk Producers Societies Members & Employees Welfare Trust Bangalore Milk Union Ltd. Vs Deputy Commissioner of Income (Exemptions) case, the Honourable High Court of Karnataka had decided the matter in favour of the Appellant as under:

"WHEREAS, the SETTLOR/EXECUTOR with an intention to safeguard the interests of the Milk Producers and the employees of the Milk Producers Co-operative Societies of the District and to help the Milk Producers, has come forward to constitute this Trust to safeguard the interests and to promote the health and education of the Member Milk Producers, their families/dependent children and the employees working in the Milk Producers Co-operative and their families/dependent children."

7. The Appellant also submits in the case of the Trust created for the benefit of Rana Caste or community of City of

Ahmedabad, the Apex Court in Ahmedabad Rana Caste Association v. CIT [19711 82 ITR 704 has held thus:

"It is well settled by now, and the High Court also has rightly taken that view, that an object beneficial to a section of the public is an object of general public utility. To serve a charitable purpose, it is not necessary that the object should be to benefit the whole of mankind or all persons in a particular country or State. It is sufficient if the intention to benefit a section of the public as distinguished from a specified individual is present."

8. The Appellant humbly submits that based on above facts and circumstances appeal may be allowed."

3. The facts of the case are that the assessee trust e-filed application in Form 10A on 30.10.2018 for registration u/s. 12AA of the Act. The assessee submitted the details called for by the CIT(E) and submitted that providing medical car to retired BWSSB Employees is a charitable cause and falls within the definition of charitable activity and sought registration. The assessee relied on the decision in the case of Bangalore Urban & Rural District Co-operative Milk Producers Societies Members & Employees Welfare Trust Bangalore Milk Union Ltd., 79 taxmann.com.

4. The CIT(E) examined the following objects of the assessee trust filed along with the application for registration:-

"A. The objects of the association is to provide medical treatment to the employees and their spouse retired/going to retire from BWSSB and incur the medical expenditure (main object).

B. The other objects are developing healthy co-operative principles cordiality among the members, make the facilities available to all the members without caste, creed and gender partiality.

C. To create awareness among the members regarding the development in medical field. To organise scientific and medical

programmes family welfare, insurance and small saving awareness programmes to members.

D. To conduct scientific medical seminars to remove blind faith superstition among the members,

E. To conduct blood donation camp, environment programmes, eye donation, sports and culture etc. relating to members.”

5. From the above objects clauses, the CIT(E) was of the view that the benefits of the association are confined to its members only and not public at large. The aim is to provide medical relief only to the retired employees and their spouse and only later on it may be extended to the general public and therefore the objects are restricted to members only. The decisions relied on by the assessee were found distinguishable by the CIT(E) and he observed that in the case of *Bangalore Urban & Rural District Co-operative Milk Producers Societies Members & Employees Welfare Trust Bangalore Milk Union Ltd.*, 79 taxmann.com and *Ahmedabad Rana Caste Association* (82 ITR 704), there were several objects which were open to the community at large intended to general public which were not individually identifiable. But in the instant case, the CIT(A) held that the membership of association as well as benefits are restricted to retired employees and their spouse and therefore rejected grant of registration u/s. 12AA of the Act.

6. Against this, the assessee is in appeal before us. None appeared on behalf of the assessee at the time of hearing. We proceed to adjudicate the case after taking into consideration the material on record and after hearing the Id. DR.

7. From the objects of the clause which are reproduced in the earlier paragraph, we find that the assessee is not existing for the benefit of public at large, instead it exists only for the benefit of members of the Association. Being so, the CIT(E) has taken the correct view on the facts of the case to

deny registration u/s. 12AA of the Act. We do not find any infirmity in the impugned order and the same is confirmed.

8. In the result, the appeal of the assessee is dismissed.

Pronounced in the open court on this 12th day of July, 2021.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 12th July, 2021.

/Desai S Murthy /

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.