

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

Before Shri N.R.S. Ganesan (JM) and Shri B.R. Baskaran(AM)

I.T.A No. 246/Coch/2012

Tolins Educational Trust
VII/578, Kalady P.O.
Ernakulam 683 574
PAN : AACTT1384J
(Appellant)

vs C.I.T., Kochi

(Respondent)

Appellant by : Shri Mohan Pulikkal
Respondent by : Shri M Anil Kumar, C.I.T.
Smt. S Vijayaprabha

Date of hearing : 11-07-2013
Date of pronouncement : 31-07-2013

O R D E R

Per N.R.S. Ganesan (JM)

This appeal of the assessee is directed against the order of Administrative Commissioner, Kochi dated 31-07-2012 rejecting the application for registration u/s 12AA of the Act.

2. Shri Mohan Pulikkal, the Id.counsel for the assessee submitted that the Administrative Commissioner has not passed the order within six months from the date of application. Therefore, there was a deemed registration. To verify this allegation we called for the details from the

office of the Commissioner of Income-tax. The Commissioner of Income-tax clarified that the application was, in fact, filed on 27-01-2012 and not on 24-10-2012 and order was passed on 31-07-2012. Since the order was passed on 31-07-2012, the Id.counsel for the assessee submitted that now he will not press this ground of appeal.

3. Referring to the merit of the application for registration, the Id.counsel for the assessee submitted that the assessee is running a pre-school for pre KG students in an air conditioned building. The Administrative Commissioner rejected the application of the assessee on the ground that the school is made for the benefit of the children belonging to well-to-do families. According to the Id.counsel merely because the class rooms are conducted in an air conditioned room will not lose its character as educational institution. Therefore, the assessee is entitled for registration u/s 12AA of the Act. On a query from the bench, whether the assessee got the approval of the State Education Department for running the school, the Id.counsel for the assessee on instruction from the assessee clarified that the assessee has not applied for recognition / approval nor approval was received from the State Government so far. The Id.counsel further clarified that for conducting pre KG no approval is required from the State Government.

4. We heard Shri M Anil Kumar, the Id.DR also. According to the Id.DR, the assessee is not running any formal school and no approval was obtained from the education department. According to the Id.DR, only formal schooling will be considered as educational institution.

5. We have considered the rival submissions on either side and also perused the material available on record. The assessee is claiming registration u/s 12AA of the Act as educational institution. This Tribunal had an occasion to consider an identical issue in the case of M Star Charitable Society vs CIT (2013) 142 ITD 153 (Cochin). This Tribunal found that "education" means a formal schooling, which resulted in conferment of a degree or diploma or award by government or governmental agency. Mere training Centre or tuition centre cannot be considered to be an educational institution as contemplated in section 2(15) of the Act. In this case, the assessee is running only play school for pre KG students. No approval was obtained from the State Government for running regular school. It is also an admitted fact that the assessee has not applied for recognition or approval from the State Government for running a regular school. In those circumstances, running a play school for pre KG students may, at the best, be called as running a sophisticated child care centre in an air conditioned room. Running a child care centre or play school would not come within the purview of "education" as

contemplated in section 2(15) of the Act. As observed by the Apex Court in Sole Trustee, Loka Shikshana Trust vs CIT (1975) 101 ITR 234 (SC) what education connotes in section 2(15) is the processing of training and developing the knowledge, skill, mind and character of students by normal schooling. Since admittedly, normal school was not run by the assessee, this Tribunal is of the considered opinion that the assessee is not entitled for registration u/s 12AA of the Act. Accordingly by following its earlier order in M Star Charitable Society (supra) and for the reasons stated therein, the order of the Administrative Commissioner is confirmed.

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

Order pronounced in the open court on this 31st July, 2013.

Sd/-

(B.R. Baskaran)
ACCOUNTANT MEMBER
Cochin, Dt : 31st July, 2013

pk/-

copy to:

1. The appellant
2. The respondent
3. The Commissioner of Income-tax
4. The Commissioner of Income-tax(A)
5. The DR

(True copy)

sd/-

(N.R.S. Ganesan)
JUDICIAL MEMBER

By order

Asstt. Registrar, Income-tax Appellate Tribunal, Cochin Bench