

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “जी”, नई दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH ‘G’, NEW DELHI**

सुश्री सुषमा चावला, उपाध्यक्ष एवं डॉ. बी आर आर कुमार, लेखा सदस्य के समक्ष

**BEFORE MS. SUSHMA CHOWLA, VICE PRESIDENT**

**AND**

**DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.2902/Del/2008**

**निर्धारण वर्ष / Assessment Year 2001-02**

Wilsonia West End School Society,  
Sonakpur, Harthala, Moradabad.

PAN-AAAFW7547G

.....अपीलार्थी / Appellant

vs

The CIT,

Civil Lines, Moradabad.

..... प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No.2903/Del/2008**

**निर्धारण वर्ष / Assessment Year 2001-02**

Wilsonia Degree College Society,  
Ashiana Phase-II, Kanth Road,  
Moradabad.

PAN-AAATW1192W

.....अपीलार्थी / Appellant

vs

The CIT,

Civil Lines, Moradabad.

..... प्रत्यर्थी / Respondent

**And**

**आयकर अपील सं. / ITA No.2904/Del/2008**

**निर्धारण वर्ष / Assessment Year 2001-02**

Wilsonia College Society,  
Wilsonia College, Civil Lines,  
Moradabad.

PAN-AAATW0049D

.....अपीलार्थी / Appellant

vs

The CIT,

Civil Lines, Moradabad.

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Piyush Kaushik, Adv.  
प्रत्यर्थी की ओर से / Respondent by : Sh. H.K.Choudhary, CIT DR

|   |   |
|---|---|
| सुनवाई की तारीख /<br>Date of Hearing : 29.01.2020 | घोषणा की तारीख /<br>Date of Pronouncement: 30.01.2020 |
|---|---|

**आदेश / ORDER**

**PER SUSHMA CHOWLA, VP**

The present bunch of appeals filed by different assessee are against consolidated order of Commissioner, Moradabad dated 10.07.2008 under section 12A/12AA of the Income Tax Act.

2. The present three appeals relating to connected assessee have been restored back to the Tribunal by the order of the Hon'ble Delhi High Court in assessee's own case in ITA No. 1157/2009, vide judgment dated 22.05.2017. The Hon'ble High Court has directed the Tribunal to reconsider the matter with regard to the genuineness of activities of the assessee societies and to pass fresh order on this limited aspect.

3. Briefly in the facts of the case, the assessee had moved separate applications in prescribed form seeking registration under section 12A of the Act. The Commissioner, Moradabad, vide order dated 10.07.2008 had rejected the grant of registration to the said societies under section 12A read with section 12AA of the Act. The Tribunal in the first round vide consolidated order dated 29.05.2009 had held that the said societies existed only for the purpose of imparting education. In these

circumstances, it was observed by the Tribunal that where the societies were running educational institution without any profit motive, then even if funds were given inter se between the societies, could not be ground to refuse the registration to the assessee societies unless it was shown that some personal benefit was drawn to make some benefit. The Tribunal then held the assessee to be entitled for registration under section 12A/12AA of the Act. It was further held that the violation, if any, of section 13 of the Act would be decided while disclosing the assessment after the grant of registration.

4. The Revenue filed an appeal against the order of the Tribunal before the Hon'ble High Court, which vide its order dated 22.05.2017 observed that the objects of the society were charitable in nature; however directed the Tribunal to reconsider the matter with regard to the genuineness of the activities of the societies, as to whether they were in consonance with the charitable objects for which they were established.

5. The learned AR for the assessee before us pointed out that the societies were in existence since 31.10.2002 but application under section 12A of the Act was moved on 26<sup>th</sup> March, 2008, copy of which is placed at page 17 of the paper book. The Commissioner, Moradabad vide its order dated 10.07.2008 had refused registration under section 12A /12AA of the Act. Our attention was drawn to the audited accounts of each of the entity starting from Assessment Years 2006-07 onwards and the assessee also pointed out that the assessment orders were passed under section 143(3)

of the Act, wherein the activities of the assessee of imparting education had been accepted and no adverse comments were made.

6. The learned DR for the Revenue placed reliance on the order of the Commissioner.

7. We have heard the rival contentions and perused the record. The issue which needs to be adjudicated by us is on limited remand of the Hon'ble High Court to consider the genuineness of the activities undertaken by the assessee. The first aspect of grant of registration under section 12A/12AA of the Act is that the object of the assessee society should be charitable in nature. The assessee was engaged in imparting education and the objects were of charitable in nature which has been accepted by the Hon'ble High Court. As far as the genuineness of the activities of the assessee society were concerned, the assessee had filed on record the audited accounts for different assessment years alongwith the assessment orders for the respective years and no adverse comments have been made against any of the assessee society, which are listed before us.

8. In such facts and circumstances of the case, we hold that where the activities undertaken by the assessee in the field of education were genuine, the assesseees were entitled to the claim of registration under section 12A/12AA of the Act. Accordingly, we hold so and direct the Commissioner, Moradabad to grant registration to the assessee from the date of the application moved by the assessee. Hence the claim of the assessee stands allowed.

9. In the result, all the three appeals of the assessee are allowed.

Order pronounced in the open court on 30<sup>th</sup> January 2020.

**Sd/-**  
**(DR. B.R.R.KUMAR)**  
लेखा सदस्य/ACCOUNTANT MEMBER  
दिल्ली / दिनांक Dated: 30<sup>th</sup> January, 2020  
*SH*

**Sd/-**  
**(SUSHMA CHOWLA)**  
उपाध्यक्ष/VICE PRESIDENT

आदेश की प्रतिलिपि अद्येषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. मुख्य आयकर आयुक्त / The Pr. CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण ,दिल्ली  
Assistant Registrar, ITAT, Delhi