

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE 'A' BENCH, BANGALORE**

**BEFORE SMT ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER  
AND  
SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

**ITA Nos.670 & 671(BNG.)/2014**

Civil Contractors Association,  
D.K.Mangalore  
D.No.1 N-12-741/14(2), First Floor,  
Raghu Building, Urwastores,  
Mangalore

Appellant

**PAN No.AABAC7565N**

**Vs**

The Income-tax Officer  
Ward-1(1),  
Mangalore

Respondent

**Assessee by : Shri Edmond D'Souza, CA  
Respondent by : Shri G.R.Reddy, CIT-DR-I**

**Date of hearing : 25-08-2015  
Date of pronouncement : 31-08-2015**

**ORDER**

**PER SMT ASHA VIJAYARAGHAVAN, JM:**

These two appeals are filed by the assessee against the orders of the CIT, Mangalore both dated 31-03-2010 passed u/s 12AA(1)(b)(ii) and 80G of the IT Act, 1961, whereby the applications seeking registration u/s12A and recognition u/s 80G of the Act, was rejected.

**ITA No.670 & 671(B)/2014**

2. The assessee is a society registered under the Karnataka Societies Registration Act, 1960. The assessee is a public charitable society which made an application for registration u/s 12A and grant of approval u/s 80G in Form No.10-A and Form No.10-G on 05-09-2013 respectively.

3. The CIT, Mangalore by order dated 31-03-2014 passed u/s 12AA(l)(b)(ii) of the IT Act, 1961 dismissing the application made by the assessee for registration u/s 12AA holding that he is not satisfied with the object of the association and genuineness of its activities. Similarly, an application filed for recognition u/s 80G was also rejected by the CIT. The CIT distinguished the case of the assessee with that of the Hon'ble Supreme Court decisions relied on by the assessee namely ...CIT Vs Surat Art Silk Cloth Manufacturers Associations (1980) 121 ITR 01 and also in the case of CIT Vs Federation of India Chambers of Commerce & Industry (1981) 130 ITR 186. The CIT observed that in both the cases the Hon'ble Supreme Court held that the primary purpose is an object of general public utility, whereas in the case of the assessee the primary object i.e first object as per the MOA is to put an effort towards growth and protect professional welfare of "South Canara Civil Contractors". Hence, it was

held by the CIT that the object primarily stated by the assessee is not an object of "General Public Utility" as defined in Sec.2(15) of the IT Act, 1961. Thus, the CIT concluded that the Hon'ble Supreme Court decisions cited by the assessee are not applicable in the instant case.

4. The CIT also observed that the assessee had failed to furnish a duly registered MOA incorporating necessary clauses, as intimated in the show cause notice dated 20-01-2014.

5. Aggrieved, the assessee is in appeal before us.

6. We find from the facts of the case that a show cause notice was issued to the assessee from the office of the CIT dated 20-01-2014 directing the assessee to incorporate certain amendments in the MOA. The assessee had made necessary amendments and filed before the CIT, the photocopies of the amendments made in Kannada which were registered with the Registrar of Society, Dakshin Kannada, Mangalore dated 15-03-2014. Subsequently, the assessee has translated from

Kannada to English language and the same is produced at paper book at page-10 before us.

7. The fact remains that the assessee has not furnished original/copy of the registered MOA incorporating the necessary clauses as intimated through show cause notice dated 20-01-2014, even though he had made the necessary amendments in Kannada and got them translated into English. Under these circumstances, we set aside the issue to the file of the CIT, before whom the assessee shall produce the amended MOA with translation in English. The CIT shall examine the new/amended MOA and thereafter, going through the objects of the association decide the issue as to whether the objects are objects of "General Public Utility" and hence eligible for exemption u/s 11 of the IT Act, following the ratio of decisions of the Apex Court in the case of CIT Vs Surat Art Silk Cloth Manufacturers Associations (1980) 121 ITR 01 and in the case of CIT Vs Federation of India Chambers of Commerce & Industry (1981) 130 ITR 186 (Supra). The CIT shall after satisfying himself with the objects of M/s Civil Contractors Association examine the

**ITA No.670 & 671(B)/2014**

amended deed and thereafter grant registration u/s 12A and relief u/s 80G of the IT Act, 1961.

8. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Pronounced in the open Court on 31<sup>st</sup> August, 2015.

**Sd/-**  
**(ABRAHAM P GEORGE)**  
**ACCOUNTANT MEMBER**

Place: Bangalore:  
D a t e d : 31-08-2015  
**am\***

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

**Sd/-**  
**(ASHA VIJAYARAGHAVAN)**  
**JUDICIAL MEMBER**

By order,  
AR, ITAT, Bangalore