

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER  
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 24/CTK/2016**

Orissa Industries Association, New Industrial Estate, Jagatpur.	Vs.	CIT (Exemptions), Hyderabad
PAN/GIR No.		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Gouri Mohan Rath, AR  
Revenue by : Shri Kunal Singh, CIT DR

**Date of Hearing : 09/08/ 2017**  
**Date of Pronouncement : 11 /08/ 2017**

**ORDER**

**Per N.S.Saini, AM**

This is an appeal filed by the assessee against the order of the CIT (Exemptions), Hyderabad Bhubaneswar dated 28.9.2015.

2. The sole issue involved in this appeal is that the CIT(Exemptions), Hyderabad was not justified in rejecting application for registration u/s.12AA of the Act as all the conditions required u/s.12AA are fulfilled by the assessee.

3. The brief facts of the case are that the assessee society filed application in Form No.10A seeking registration u/s.12AA of the Act.

4. The CIT (Exemptions), Hyderabad vide letter dated 3.8.2015 required the assessee to provide details of amendment clause and

dissolution clause in the Memorandum of Association alongwith detailed note thereon.

5. After considering the details filed by the assessee, the CIT (Exemptions) observed that " amendment clause" does not specifically stipulate that the amendments shall be carried out only with the prior approval of the CIT( E). He further observed that "Winding up clause" does not specifically stipulate that on winding up of the society, the remaining assets shall be transferred/paid to an institution having registration u/s.12AA and approval u/s.80G(5) of the I.T.Act, 1961. Hence, he rejected the application of the assessee society for grant of registration u/s.12AA of the Act.

6. Ld A.R. of the assessee has filed before us copy of Memorandum of Association and submitted that Article No.XVI provides for "Amendment clauses" and Article No.XXII provides for "dissolution clauses" of the society. Hence, he prayed that CIT(E) was not justified in refusing registration to the assessee society u/s.12AA of the Act and prayed that his order should be set aside and the CIT (E) be directed to grant registration.

7. On the other hand Id D.R. supported the order of the CIT(E).

8. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, the CIT(E) refused to grant registration to the assessee society u/s.12AA of the assessee on the following grounds:

- (i) The amendment clause in the Memorandum of Association (MOA) of the assessee society does not provide that amendments to the MOA shall be carried out with the prior approval of the CIT(Exemption).
- (ii) The Winding Up clause in the MOA of the assessee society does not stipulate that on winding up the society, the remaining assets shall be transferred or paid to an institution having registration u/s.12AA of the Act and having approval u/s.80G of the Act.

9. As regards the first objection of the CIT(E), we find that the amendment clause of the MoA of the assessee society does not provide for prior approval of the CIT(Exemption). We find that there is no such provision u/s.12AA of the Act and, therefore, in our considered view, the CIT(Exemption) is not justified in rejecting application for registration of the assessee society on this ground.

10. As regards to second objection i.e. "Winding up clause", the CIT(E) has stated that MoU does not contain dissolution clause. On perusal of MoA, we find that the dissolution clause which reads as under:

"The Association may be dissolved of a General Meeting specially called for the purpose either by the Executive Committee or upon requisition by one third number of members provided that two third members present, vote for the same.

Upon dissolution of the Association its assets will be handed over to a similar registered society or to the Government after clearing up all its debts and liabilities, subject to the income Tax Act and any other statute as may be applicable."

A bare perusal of dissolution clause show that it provides that in the event of dissolution of the assessee society, all assets will be handed over to a similar registered society or to the Government. Thus, we find that the CIT(E) was not justified in refusing to grant registration u/s.12AA of the Act on this ground also.

11. For the foregoing reasons, in our considered opinion, the refusal to grant registration u/s.12AA of the Act to the assessee society is not proper and justified. Hence, we set aside the order of the CIT(Exemption), Hyderabad and direct him to grant registration u/s.12AA of the Act to the assessee society. Thus, the ground of appeal of the assessee is allowed.

12. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 11/08/2017.

Sd/-

**(Pavan Kumar Gadale)**  
**JUDICIALMEMBER**

sd/-

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

Cuttack; Dated 11 /08/2017  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Orissa Industries Association,  
New Industrial Estate, Jagatpur
2. The Respondent. CI (E) Hyderabad.
3. The CIT(A)-
4. Pr.CIT-
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Cuttack**

