



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

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

**ITA Nos. 63,64,65,66 & 67/CTK/2016**

Assessment Years: 2003-04, 2004-05, 2005-06, 2006-07 &  
2007-08

Swasthya Bikash Samiti, SCB Medical College and Hospital Compound, Mangalabag, Cuttack	Vs.	ACIT, Circle 2(1), Cuttack
PAN/GIR No.AAEAS 5600 H		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Sandeep Kumar Jena, AR  
Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 24/10/ 2017**  
**Date of Pronouncement : 25/10/ 2017**

**ORDER**

**Per Bench:**

These are appeals filed by the assessee against the consolidated order of the CIT(A)- Cuttack dated 20.11.2015 for the assessment years 2003-04 to 2007-08, respectively.

2. The common grounds of appeal taken in all the appeals read as under:

" . A. For that the Ld AO as well as Ld. CIT (A) are erred in facts as well as in law in determining the status of the appellant as AOP by completely ignoring the Memorandum and Govt's Notifications of the appellant's creation and existence, where as it has been clearly stated that the appellant has been



created by the Govt of Odisha to provide Health services to the people of the state as an agent/ intermediately.

B. For that the User fees so collected by the appellant has been determined/decided by the Health and Family Welfare Department of Govt, of Odisha and the appellant as duty bound to obey the instructions of the Govt, as an agent to collect the same on its behalf from various departments of SCB Medical College.

C. That The Ld CIT (A), Cuttack has dismissed the appeal without considering the facts and documents in a narrow premise by holding that as the Appellant could not produce the certificate of registration u/s 12 A of the Income Tax Act,1961, therefore exemption u/s 11 and 12 shall not be allowed. The Ld CIT (A), Cuttack completely failed to decide the status of the Appellant which is part and parcel of Govt Hospital."

3. At the time of hearing, Id A.R. of the assessee filed before us a copy of order dated 11.4.2012 of this Bench of the Tribunal in the case of the assessee itself passed for the assessment years 2003-04 to 2007-08 in ITA No.466/CTK2011 and ITA Nos.467 to 470/CTK/2011 and others and submitted that the Tribunal had set aside the assessment in all the years under appeal to the file of the Assessing Officer for making denovo assessment with the following terms:

"We are of the considered view that all these assessments are just "to be restored to the file of the AO for denovo assessment as non-registration to the assessee u/s.12AA is the only basis for not accepting the exemptions claimed by the assessee in its returns. Therefore, we are of the considered /view that all these assessments are just to be restored to the file of the AO for de novo consideration after the CIT has passed the order afresh on the assessee filing fresh application u/s.12AA for registration in accordance with the provisions of law and after the said order reaching a finality."

4. Ld A.R. of the assessee submitted that the Assessing Officer has passed the assessment orders in pursuance to the direction of the Tribunal afresh without waiting for the order of the CIT on the application



for registration filed by the assessee u/s.12AA of the Act and in these assessments, the Assessing Officer has disallowed the claim of exemption u/s.11 and 12 of the Act to the assessee. He submitted that the hearing by the CIT for grant of registration u/s.12AA of the Act has been concluded on 6.7.2017 for which the order is still awaited. It was his submission that not following the order of the Tribunal by the Assessing Officer while making the assessment denovo and disallowing the claim for exemption u/s.11 & 12 of the Act makes the order of the Assessing Officer bad in law.

5. On the other hand, Id D.R. submitted that as the assessment was getting time barred, the Assessing Officer had no option but to pass the assessment orders in pursuance to the direction of the Tribunal.

6. After considering the rival submissions and perusing the materials available on record, we find that the hearing for grant of registration u/s.12AA of the Act has been concluded by the CIT on 6.7.2017, for which the order is yet to be passed by him. In the above background of the case, we set aside the orders of the CIT(A) and remand the appeals back to the file of the Assessing Officer for making the assessment denovo with the same direction as given by the Tribunal in its order dated 11.4.2012. Thus, the appeals of the assessee allowed for statistical purposes.



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

Order pronounced in the open court on 25 /10/2017.

Sd/-

sd/-

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

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

Cuttack; Dated 25 /10/2017

B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Swasthya Bikash Samiti, SCB  
Medical College and Hospital Compound,  
Mangalabag, Cuttack
2. The Respondent. ACIT, Circle 2(1), Cuttack
3. The CIT(A)- Cuttack
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Cuttack**