

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

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

ITA Nos. 543 & 544/VIZ/2017

Coastal Charitable Foundation, vs. CIT (Exemptions),
D.No. 15-1-37/3, Jayaprada Hyderabad,
Apartments, Nowroji Road,
Maharanipeta, Visakhapatnam.

PAN No. AABTC 7705 K
(Appellant)

(Respondent)

Assessee by : Shri R. Venkataraman – CA.
Department By : Shri Deba Kumar Sonawal – CIT DR

Date of hearing : 08/05/2018.
Date of pronouncement : 18/05/2018.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

These appeals by the assessee are directed against the common order of Commissioner of Income Tax (Exemptions), Hyderabad, dated 22/09/2017, whereby registration under section 12AA and approval under section 80G of the Income Tax Act, 1961 (hereinafter referred to as 'Act') have been rejected.

2. Facts of the case, in brief, are that assessee filed an application in Form No. 10A for seeking registration under section 12AA of the Act. The Id. CIT(E) after verification of the trust deed,

noticed that the trust has not incorporated amendment clause and investment clause, and therefore, rejected the registration on the ground that the amendment is one of the necessary clauses for the purpose of registration under section 12AA of the Act.

3. Ld. Authorized Representative for the assessee has submitted that there is no amendment clause incorporated in the objects, as it is not necessary for registration under section 12AA of the Act. He also relied on the decision of the ITAT, Jodhpur Bench in the case of *Shri Agarwal Panchayat Vs. ITO* in ITA No. 532/JODH/2014, dated 04/09/2015.

4. On the other hand, Id. Departmental Representative relied on the order of the Id. CIT(E).

5. We have heard both the sides, perused the material available on record and order of the lower authority.

6. The assessee is a charitable foundation and applied for registration under section 12AA by filing application in Form No. 10A. The Id. CIT(E) after verification of the trust deed, found that in the objects of the assessee, no amendment & investment clauses are incorporated and therefore rejected for registration. During the course of hearing, when we asked, Id. Authorized Representative for the assessee as to why amendment is not incorporated, it is submitted that it is not necessary to incorporate

the amendment at the time of registration and it can be amended subsequently also. We have considered the arguments of the Id. Authorized Representative for the assessee and find that when the assessee has filed an application for registration under section 12AA in Form No. 10A, it has to comply with the requirement of section 12A and Rule 17A of IT Rules, 1962. Clause (d) of Rule 17A provides as under:-

"(d) *self-certified copy of the documents evidencing adoption or modification of the objects, if any;*

As per the aforesaid clause (d) of Rule 17A, the modification clause has to be incorporated in the objects of the assessee foundation. As the assessee has failed to incorporate the above clause, which amounts to violation of Rule 17A, therefore, in our opinion, Id. CIT(E) has rightly rejected the registration under section 12AA to the assessee. The case law relied on by the assessee in the case of *Shri Agarwal Panchayat (supra)*, has no application to the facts of the present case. However, keeping in view of the interest of justice, we are of the opinion that, if assessee so advised, he can file a revised objects by including amendment clause before the Id. CIT(E). If assessee files again with incorporated amendment clause, the Id. CIT(E) is directed to

consider the same and pass necessary orders in accordance with law.

7. So far as recognition of section 80G is concerned, unless assessee is registered under section 12AA, is not eligible for recognition. However, it is open to the assessee to file another application for approval under section 80G, after getting registration under section 12AA of the Act.

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

Order Pronounced in open Court on this 18th day of May, 2018.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated : 18th May, 2018.

vr/-

Copy to:

1. The Assessee- Coastal Charitable Foundation, D.No. 15-1-37/3, Jayaprada Apartments, Nowroji Road, Maharanipecta, Visakhapatnam.
2. The Revenue - CIT (Exemptions), Hyderabad.
3. The D.R., Visakhapatnam.
4. Guard file.

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.