

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD**

**BEFORE SHRI P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 770/Hyd/2016
Assessment Year: 2015-16**

CK Global Foundation, vs. CIT (Exemptions),
Hyderabad. Hyderabad.

PAN – AABTC5937B

(Applicant)

(Respondent)

Assessee by : Shri Samuel Nagadesi
Revenue by : Shri Y.V.S.T. Sai

Date of hearing : 24-07-2019
Date of pronouncement : 31-07-2019

ORDER

PER S. RIFAUR RAHMAN, J.M.:

This appeal is filed by the assessee for the A.Y 2015-16 against the order of the Commissioner of Income Tax (Exemptions), Hyderabad, dated 25.04.2016.

2. Brief facts of the case are, assessee is public charitable trust with the object to establish and maintain centers of adult education, vocational education technical training and other types of formal and non-formal education for the students who are economically weak and with other related objects established on 11.12.2013. The assessee had filed application in Form No. 10A on 01.10.2015, seeking registration u/s 12A of the Income Tax Act, 1961 (in short 'the Act). The Ld. CIT(E) issued notice

to verify trust deed and other relevant information. In that process Ld. CIT(E) noticed that in the trust deed assessee has 2 clause i.e 7.30 and 7.27 is not proper in accordance with the income tax Act. Accordingly, he denied the registration u/s 12AA of the Act.

3. Aggrieved with the above order assessee is in appeal before us raising following grounds of appeal;

“1. On the facts and in the circumstances of the case, the order of the Ld. CIT(E) is erroneous in law and facts of the case.

2. On the facts and in the circumstances of the case, the Ld. CIT(E) is erred in law and facts of the case in rejecting the appellant’s application for registration without granting an opportunity of being heard and not conducting the hearing himself, not followed the principles of natural justice.

3. On the facts and in the circumstances of the case the Ld. CIT(E) erred in law and facts of the case in appreciating the contents of clause 7.30 of the trust deed and failed to understand that the approval of the Commissioner is a condition to the grant of registration and to be followed by the appellant after grant of registration.

4. On the facts and in the circumstances of the Ld. CIT(E) is erred in law and facts of the case in appreciating the clause 7.27 of the trust deed regarding dissolution and has drawn a perverse conclusion about the same without application of mind.

5. The appellant crave leave to add to/alter/modify/substitute/amend/withdraw all or any of the above grounds with the permission of the Honourable Bench.

4. Before us Ld. AR submitted that Ld. CIT(E) has rejected the application for registration without granting opportunity of being heard and not conducted the hearing himself and further he submitted that Ld. CIT(E) has drawn wrong conclusion with reference to clause 7.27 and 7.30, these are all necessary clauses to run the trust without any hinderance. Further he submitted that the Ld.

CIT(E) has to follow the rule of law, he brought to our notice to Sec. 12AA(1) sub Sec. (b) of the Act as per which Ld. CIT(E) has to satisfy himself about the objects of the trust and genuineness of its activities shall pass an order or if not satisfies pass an order refusing to register. He submitted that the Ld. CIT(E) has no objections about the object of the clause whereas he has objected about the other subsidiary clauses of powers, liability and indemnity of the trust. According to him Ld. CIT(E) has to verify and satisfy himself only the object clause not the whole deed and he supported clauses in the deed and prayed that the direction may be given for registration u/s 12AA of the Act.

5. On the other hand, Ld. DR submitted that both the clauses referred by the CIT(E) is relevant and the clause 7.30 is open ended clause for the trust to modify the object clause whenever it suits them, the registration cannot be modified as and when they modify the clause. Further, he submitted that with regard to clause 7.27 at the time of dissolution assessee intends to transfer the funds of the present trust to any other recognized public charitable trust who may not have registration u/s 12AA of the Act. It defeats intention of the legislature and he submitted that assessee may modify the clause in order to include those trust which are having 12A registration alone shall be allowed to receive funds at time of dissolution. With regard to 7.30 he strongly advocated that this clause be modified or deleted in order to rationalize the objects of the society.

6. Considering the rival submissions and material on record. We noticed that assessee is a public charitable trust and is having various objects for the charitable purposes. However, liability and indemnity clauses of the trust are, so that the trust may be administrated properly. However, As per the clause 7.30, the trust may modify the objects of the trust whenever certain activities which are not provided in the trust or are necessary for administration of the trust arise, by passing special resolution by the board of the trustees. According to us, this power is to alter the objects of the society in the near future whenever they wanted to bring in new activities within the objects of the society. But, in our opinion, such modification may be within the overall objects of the society, but it has to be as per the registration granted. Otherwise, it may be against the objects for which the registration was granted. It may lead to inconsistency in the objects of the society in the near future. Therefore, in our considered view, assessee may have to modify the above clauses suitably or delete the clause.

7. With regard to the clause 7.27, we are of the opinion that assessee has to amend the clause to the effect that the beneficiary trust which will receive the funds at the time of dissolution, also should be registered u/s 12AA of the Act. Therefore, the assessee, if it is so advised, may make the above modifications in the trust deed and approach the CIT(E) for the grant of 12A registration under the Act. Accordingly grounds raised by the assessee are rejected.

8. In the result appeal filed by the assessee is dismissed.

Pronounced in the open court on 31st July, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMEBR

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, Dated: 31st July, 2019.

KRK

- 1) *CK Global Foundation, C/o Samuel Nagadesi, CA, 408, Sri Ramakrishna Towers, Besides Image Hospitals, Nagarjuna Nagar, Ameerpet, Hyderabad - 73*
- 2) *CIT(E), Hyderabad.*
- 3) *ITO, Ward-2, Hyderabad*
- 4) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 5) *Guard File.*