



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"E" BENCH, MUMBAI**

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER AND**  
**SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA no.4846/Mum./2018  
(Assessment Year : 2018-19)

Extension Systems Foundation  
International, C-25/2, Kendriya Vihar  
Sector-38, Seawood West  
Navi Mumbai 400 706  
PAN – AAECE7071J

..... Appellant

v/s

Commissioner of Income Tax (Exemp.)  
Piramal Chambers, Parel, Mumbai

..... Respondent

Assessee by : Ms. Apurva Hire  
Revenue by : Shri R. Manjunatha Swamy

Date of Hearing – 01.03.2021

Date of Order – 27.05.2021

**ORDER**

**PER S. RIFAUR RAHMAN, A.M.**

The present appeal has been filed by the assessee challenging the order dated 26<sup>th</sup> June 2018, passed by the learned Commissioner of Income Tax (Exemp.), Mumbai, for the assessment year 2018-19.

2. The Brief facts of the case are, assessee a section 8 company filed an application for registration under section 12A of the Income Tax Act 1961 (in short "*the Act*") in the prescribed form No. 10A on 7.12.2017. The company was created on 7.7.2017 and was registered

with the ROC, Mumbai on 11.7.2017. Notice was issue to assessee to collect the basic documents relating to the company and in response assessee filed the relevant information as called for. The Commissioner of Income Tax (Exemption) noticed that some of the principal objects of the company are prima facie commercial in nature, they are reproduced below:–

*"vii. To render consultancy service in Extension Systems activities of Business House, Government, Public & Private Enterprises, NGOs / NPOs, Farmers and Farmers Organizations.*

*viii. To carry out research projects in the field of Extension Education, Transfer of Technology, Marketing of Farm Production inputs, Social Science & Humanities.*

*ix. To manage any professional ventures, events, hospitality, group meetings rural camps, exhibition and shows."*

3. When the assessee was asked to explain the above said object clause and why it cannot be termed as commercial in nature. In response assessee filed detailed submission before the Commissioner. After considering a detailed submissions and the case law relied by the assessee, the Commissioner rejected the contentions of the assessee and observed that there is no restriction to carry out any business activity in case of section 8 company, there are clear-cut restrictions on such activities that fall within the definition of charitable activity as per section 2 (15) of the Act. He also observed that for all the objects, a charitable Institute registered under section 12 A of the act can do business only which is incidental to any such objects. Further, any

charitable object of general public utility, not only the business has to be incidental to such object, but it cannot exceed the limit of 20% of the total receipts. From the above definition, it is clear that not all sections of companies will become automatically entitled for registration under section 12AA of the Act. Further he observed that as per provisions of section 12AA, mainly 2 conditions are required to be satisfied before grant of registration i.e., (1) the objects of the trust or institution are charitable in nature (2) genuineness of the activities as carried on by the trust or institution in pursuance of its objects. According to the Commissioner the examination of activities of the assessee becomes more important because some of the objects of assessee are clearly commercial in nature, particularly when the commercial objects are finding place under the head main objects of the company. In order to verify the activities, the assessee was asked upon to file copies of agreements (if any) entered into with any corporate, to provide consultancy or to carry out research or to manage any professional venture et cetera. The learned Commissioner (Exemp.) observed in his report that assessee has not provided any such agreements. After considering the statement of income and expenditure submitted by the assessee, it was observed that assessee has not submitted any supporting documentary evidences or agreement relating to the activities.

4. Learned CIT (E) further observed that if the assessee is indulging in any of the activities in accordance to the object, that prima facie would be in the nature of providing consultancy or professional services to the corporate, irrespective of what purpose or object such services would cater to, the assessee would be getting charges for the services provided by it on commercial basis. According to him, even if such activities of the corporate fall within the definition of charitable purpose then also the activity of assessee providing professional services to the corporate houses for such charitable objects will in itself not become a charitable activity. Further he distinguished the various case laws relied on by the assessee. Accordingly he rejected the application filed by the assessee seeking registration under section 12A of the Act.

5. Aggrieved with the above Order, the assessee is in appeal before us raising following grounds of appeal:—

*"1. On the facts, in the circumstances of the case & in law the Learned Commissioner of Income Tax(Exemption) Mumbai has erred in passing an order under section 12AA read with section 12A rejecting appellant's application for grant of registration.*

*2. On the facts, in the circumstances of the case & in law the Learned CIT-(Exemption) has further erred in denying the registration u/s 12A of the Income Tax Act, 1961 for the reason that clause no. 07, 08 and 09 of the Memorandum of Association are prima facie commercial in nature.*

*3. The appellant submits that it had filed full details and explanation before the CIT (E) in support of its application for grant of registration including the charitable nature of its objects*

*and the CIT (E) erred in rejecting its application.*

*4 The appellant submits that it had submitted legal position as per Proviso to Section 2(15) allowing commercial activities if the receipts from such activities do not exceeds twenty percent of total receipts and relevant explanations before the CIT (E) in support of its application for grant of registration and the CIT (E) erred in not appreciating the legal position and rejecting its application.*

*5. The appellant submits that it had submitted various judicial pronouncement that the obligation to verify the nature of activities is on the shoulders of the Assessing Officer at the time of assessment and the same is outside the preview of Learned CIT (E) and relevant explanations before the CIT (E) in support of its application for grant of registration and the CIT (E) erred in not appreciating the jurisdictional pronouncement and rejecting its application.*

*6. Each of the above grounds of appeal are independent and without prejudice to each other.*

*7. The appellant prays your honour to crave leave to add, amend, alter, delete, modify and/or change any of the grounds of appeal, which are independent, & without prejudice to each other."*

6. Before us, Ld AR submitted written submission which is reproduced below:

*1. That present case was listed for hearing on 01/03/2021 and was duly heard by the Hon'ble Bench. After considering facts of the matter, legality involved and arguments from both the side, Hon'ble bench directed Authorised Representative to file written argument in the instant matter. In this regard appellant's written argument is mentioned hereunder:-*

*2. That the present appeal was filed against the order dated 26/06/2018 issued by Respondent application dated 07112/2017 filed by appellant in form IOA for getting itself registered under section 12A, was rejected based on the presumed and surmise set of facts as mentioned hereunder:-*

*a.As per Respondent "some" of the objective mentioned in the MOA are allegedly and prima facie are commercial in nature that*

*the respondent is not satisfied with the genuineness of the activity. Said objective and reproduced hereunder:-*

*VII. To render Consultancy services in Extension Systems activities of Business House Government, Public & Private Enterprises, NGO/NPOs. Farmers and Farmer Organizations.*

*vii: To Carry out research projects in the field of Extension Education, Transfer of Technology, Marketing of farm Production inputs, Social Science & Humanities.*

*IX. To Manage any professional ventures, events, hospitality, Group meeting, rural camps, Exhibition and shows.*

*b. The another contention of the respondent for rejecting application of appellant is that, the appellant has not produced the copies of agreement if any, entered with any corporate to provide: -*

*I. Consultancy Services*

*II. To carry out research projects*

*III. To manage any professional ventures, events shows etc.*

*3. At the inception it IS submitted that Respondent contention IS misconceived and prejudicial mind having apprehension that appellant will carry objective of trust by commercialising it.*

*4. That in the MOA nowhere it is mentioned that the appellant will carry on commercial business, rather upon plain reading it can be construed that appellant 's objective for advancement of framing and helping farmer in manner as expressively stated at page no. from 76 to 83 noble cause. Which not only help farmer to be educate about framing but also to earn decent funds. Appellant's work also acts as bridge between corporate entities and farmers.*

*5. That if the stretch our imagination with the larger picture, where farmers are most valued in the country like India since farmers are nation builders. Appellant's work which will be done in very professional manner will help building nation.*

*6. It is further submitted by the Appellant that. the second contention of the respondent in the order is already mentioned above. which is about not furnishing any agreement entered into with corporate. The appellant would like to draw the attention on the following dates of events.*

- 07/07/2017 - The company was formed*
- 11/07/2017 - the Company was registered as Section 8 company under the companies Act 2013. before the ROC.*

- 07/12/2017 - the Appellant company applied for 12A certificate under the Form No. IOA.
- 27/12/2017 - the Respondent asked to furnish various documents and the certified copies of MOM and AOA of the Appellant Company from ROC.
- 11/05/2018 - The show cause notice was issued by the respondent thereby demanding the explanation as to various facts and activities mentioned in MOU in the object clause.
- 05/06/2018 - reply to the show cause notice was submitted thereby explaining the brief facts about the questions asked and w.r.t. the activities mentioned in MOU in the object clause.
- 26/06/2018 - the impugned and erroneous order was by passed by respondent.

*If we carefully take into consideration the date and the events which are chronologically stated above, it is seen that the Appellant has hardly got any time to enter into any such agreements with corporate or to deal with the organisations or to execute projects which are proposed.*

*7. That while passing impugned, respondent failed to conceive that appellant got commencement certificate only on 11/07/2017 and applied for 12A certificate. That is gap of just two months. The respondent has not applied his mind before contending that within 2 months and before completing formalities of getting status as "Trust" and "Charitable Activities" in accordance with the w i.e. Under Income Tax Act, 1961 appellant will not be position to present itself. Hence contention that appellant can't be granted status of Trust as per section 12A, since appellant has not commenced activities is erroneous and based on prejudicial state of mind and apprehension that appellant will conduct commercial activity in future Moreover, basis considered by respondent for rejecting application of appellant is on wrong footing, non-commencement of activities cannot be basis of rejecting application filed u/s. IOA of the Income Tax Act, 1961.*

*8. That it is submitted that appellant is Section 8 company i.e. "Non-Profit Organisation" registered under the Companies Act 2013. The main objectives of the company are as follows;*

- a. *Education: - Provide advance knowledge to the end users about farming by educating to farmers or the manufacturers related to agriculture. Educating them as to able them to make use best use of Agricultural products, raw materials and technologically advance equipments to maximise the yield.*
- b. *Introducing new Technology: - Developing technologically advanced equipment, which can be used by farmers to maximise their yield and thereby income.*

- c. *Research: - conducting research on various issues relating to agriculture and farming in any manner help the farmers in their daily business.*
- d. *Consultation: - Providing consultation services to commercial houses as what should be manufactured and how, which can result in good quality and quantity of yield and to the farmers as to how are they suppose to use the same, for maximisation of their produce.*

*9. It is further submitted that, providing consulting services means to guide the farms or the business organisations as to what to use and how to use and what to produce respectively. The appellant strives to promote use of advanced technology, raw material and process to maximise the agricultural yield which can help farmers to overcome the hurdles they face. The appellant wants to act as a bridge between the manufacturer and the farmers so that manufactures will know what to manufacture, how to manufacture good quality seed, fertilizers and advance equipment and providing consultancy to farmers as to how to use them. By no stretch of imagination this activity can be considered as commercial in nature and wrongly conceived by respondent and rejected application of appellant erroneously.*

*10. That after scrutinising all the papers license may be issued by central government such manner as may be prescribed, and on such conditions as it deems fit, approve that association of persons or person to be registered as a company under this section without the addition to its name of the word "Private Limited", or as the case may be, the words "Limited", and On application, in the prescribed form, Registrar may register such person or association of persons as a Section 8 Company is also a company that is registered for charitable or non-profit purposes. However, this Company is similar to a Trust or Society; an exception is that a Section 8 Company is registered under the "Ministry of Corporate Affairs (MCA)" of the Central Government while the Societies and Trusts are registered under the regulations of the State Government.*

*11. Following are the conditions of section 8 Company: -*

- a. *Incorporate for social welfare*

*This type of company incorporated for charity, social welfare, social promotion, their main aim is to promote social welfare and work for society, not to earn profits. Their main objects depict the reasons for their incorporation, objects are like Sports, Promote commerce, art, science, education, research, social welfare,*

*religion, charity, protection of the environment, or any such other object.*

*b. Licensed by government*

*These types of companies are licensed by the central government under section 8 of the companies act 2013 and these companies work for society and receive a donation from other general public for the welfare work.*

*c. No dividend distribution*

*This form of companies doesn't issue a dividend to its members, because it is restricted from the law. They cannot distribute their earned profit as dividends to its member; they can use their profit in promoting their business objectives.*

*12. That appellant company have already been subjected to scrutiny procedure for fact checking that objective of charitable in nature is maintained and condition for divided earned, if any have been placed by law. Apropos, contention based on surmise, imagination and apprehension that Appellant will carry commercial activities in future is baseless have no locus standi in the eyes in law.*

*13. It is further submitted that, The Respondent vide. show cause notice dated 11/05/2015, asked appellant to explain:-*

*a.Manner in which activities are going to conducted.*

*b.Basis of charging fees.*

*c.If appellant entered into any agreement with Corporates to provide:*

*i. Consultancy Services*

*ii. To Carry Out research projects*

*iii. To Manage any professional ventures, events, shows etc.*

*14. It is submitted that, vide the letter dated 05/06/2018, on page No. 61 of the paper book, the appellant has given the detailed information as to which charitable activities and in what the manner in which said activities will be conducted. By giving reference to Sec 2(15) of the Income Tax Act which reads as "Charitable Purpose includes relief of the poor, Education [yoga w.e.f. 1.4.2016], medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility" But for the reasons best known to respondent same was not considered based on prejudice state of mind and apprehension of*

*the respondent at very mature stage where appellant company has not been even allowed to cannot out any activities.*

*15.The appellant companies there tried to explain as how its objects mentioned in MOU i.e. Point No. VII, VIII, IX comes under "General Public Utility". However, the Respondent failed to understand the aforesaid reply and passed the erroneous order which is completely based on assumptions and apprehension that appellant will be indulged in the commercial activities in future. Kindly refer page No.76 to 83 of Paper Book. Upon plane reading of said project details the motive of appellant company can be judged without any second guess.*

*16.Kind attention of this Hon'ble bench is invited towards circular No. 21 of 2016 issued by Ld. CBDT with regard to clarification of cancellation of registration u/s. 12Aa of the Income Tax Act 1961 when trust was engaged in commercial activities. The said circular is on Page No.100 of paper book. For the sake of convenience, relevant para and so is reproduced here under.*

*"Sec 2(15) of the act provides definition of charitable purpose. It includes "advancement of any other object of "General Public Utility" provided it does not involve carrying 017 of any activity in the nature of trade, commerce or business etc. for financial consideration. The 2<sup>nd</sup> proviso to said section, introduced w.e.f 01-04-2009 vide finance Act 2010" provides that in case where the activities of any trust or institution is of the nature of advancement of any other object of general commerce or business; but the aggregate value of receipts from such commercial activities does not exceed Rs.25,00,000/- in the previous year, the purpose of such trust/institution shall be deemed as "charitable" despite it deriving consideration from such activities. However, If the aggregate value of these receipts exceeds the specified cut off, the activity would not be eligible for tax exemption in that year. Thus an entity, pursuing advancement of object of general public utihty; could be treated as a charitable institution in one year and not a charitable institution in the other year depending 017 the aggregate value of receipts from commercial activities. The position remains similar when the first and second provisos of section 2(15) get substituted by the new proviso introduced w.e.f. 01-04-2016 vide Finance Act, 2015, changing the cut off benchmark as 20% of the total receipts instead of the fixed limit of Rs.25,00,000/- C!S it existed earlier.*

#### **CONCLUSION PARA OF ARGUMENT**

*17.That the respondent firstly failed to conceive and fair understanding about noble objective of the appellant company and based on prejudicial mind and apprehension that in future*

*appellant may indulge itself in commercial activities rejects the application for granting 12A certificate. This is not only against the principle of natural justice but great injustice towards the appellant company and its trustees.*

*18.Hon'ble bench's kind attention is invited towards the resume of the Managing name Dr.O.S. Verma, Trustee having age of around 78 years submitted during the argument on the date of hearing. He is very vast experience in field of framing and agricultural. He intended to devote his remaining life and use his vast experience in help builders of nations i.e. farmers.*

*19.That to covers the apprehension respondent have that appellant company will carry on commercial activities in future, it is submitted that Income Tax Authorities are vested with the powers to revoke the status of Trust from appellant company in time in future, if it is found the conditions precedent for maintaining status of appellant company as charitable Organisation is breach. Moreover, apprehension that commercial activities will be carried on can be scrutinised during assessment proceedings and benefits of trust can be taken back from appellant in accordance with section 11 of the Income Tax Act, 1961.*

*20.That it is humbly prayed that upon considering the above, appellant company kindly be granted status of "Charitable Trust" by issuing prescribe certificate. For this purpose, AO may kindly be issued direction as this Hon'ble bench deems fit.*

*21. That appellant company relies on the judgment as submitted at paper book page no.84 to 155. For the sake of convenience synopsis is once again submitted hereunder:-*

<p><i>DIT (Exemption) v/s M/s. Khar Gymkhana ITA no.2349 of 2013 Hon'ble Bombay High Court</i></p>	<p><i>Para no. 10 (Page No. 107)</i></p> <p><i>We find that the Circular No.21 of 2016 when read as a whole, specifically lists out in paragraphs 4 and 5 reproduced herein above that the Registration granted under Section 12AA could not be cancelled, only when the receipts on account of business exceeded the cutoff, specified in the proviso to section 2(15) of the Act. The jurisdiction to cancel the Registration only arises if there is change in the nature of activities of the institution or the activities of the institution, are not genuine. The aforesaid Circular by placing reliance upon 13(8) of the Act inter alia provides that the</i></p>
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	<p><i>Registration granted to the Trust would continue even when the receipts on account of business is in excess of RS.25 lakhs. In such case, the Assessing Officer while framing the Assessment for the subject Assessment Year would be entitled to deny the benefit of exemption to such a Trust for that year.</i></p> <p><i>Para no. 12 (Page No. 109)</i></p> <p><i>In view of the issue being covered by the CBDT Circular No.21 of 2016, no grievance against the impugned order can be made by the Revenue. Therefore, the question as framed becomes academic and does not give rise to any substantial question of law.</i></p>
<p><i>Kapurthala Improvement Trust v/s CIT, ITA no.732 (Asr) of 2013 Hon'ble Amritsar Tribunal</i></p>	<p><i>Para 14, 15, 16, 17, 18 and 19 For the sake of brevity paras are not reproduced.</i></p> <p><i>A copy of referred judgment is already annexed at page no. 102 of paper book.</i></p>
<p><i>Ashoka Education Foundation v/s CIT, ITA no.549 &amp; 1294/Pn./2009 (order under section 80G &amp; 12AA) Hon'ble Pune ITAT</i></p>	<p><i>Para 28</i></p> <p><i>28. The denial of registration under section 12A of the Act by way of order passed under section 12AA(3) of the Act was on similar grounds as in the case of exemption denied under section 80G(S) of the Act. In view of our finding in the paras hereinabove, we direct the CIT to grant registration under section 12AA of the Act, as at the time of grant of registration, the CIT was only empowered to look into the nature of activities carried on by the assessee and whether the same were charitable in nature and not to look into the applicability of the provisions of section 13(1) of the Act. The Assessing Officer while granting the deduction under section 11 and 12 of the Act is to look into the violation of the provisions of section 13(1) of the Act, if any. The Commissioner at the time of grant of registration under section 12A of the Act was not empowered in considering the violation, if any, under section 13(1) of the Act. Further, in the paras hereinabove, we have already given a finding that the agreement entered into by the assessee with M/s. ABL was for the benefit of the society and the same cannot be the ground for denial of registration to the assessee trust under section 12A of the Act. The CIT is thus, directed to allow the registration under section 12AA of the Act. The grounds of appeal raised by the assessee in both the appeals are allowed.</i></p>

	<p>29. In the result, both the appeals of the assessee are allowed.</p> <p>A copy of referred judgment is already annexed at page no. 122 of paper book.</p>
<p>DIT (Exemption) v/s Gujarat Cricket Association, Hon'ble Gujarat High Court</p>	<p>Para no. 34, 35, 36,37,38,141,145 and 146. Sum up paras. 163, Page 157.</p> <p>For the sake of brevity referred paras are not reproduced.</p> <p>A copy of referred judgment is already annexed at page no. 141 of paper book.</p>
<p>Jaipur Development Authority, The J.L.N. Marg, Jaipur v/s CIT, ITA no.182/Jp./2012, Hon'ble Jaipur Tribunal</p>	<p>Page 22 of judgment last para onwards:-</p> <p>For the sake of brevity same is not reproduced.</p> <p>A copy of referred judgment is already annexed at page no. 152 of paper book.</p>
<p>M/s. Ananda Social And Educational Trust v/s CIT, Civil Appeal no.4702/2014 Hon'ble Supreme Court of India</p>	<p>Page 4 last para No activities had been undertaken by the respondent Trust before the application was made.</p> <p>The Commissioner rejected the application on the sole ground that since no activities have been undertaken by the trust, it was not possible to register it, presumably because it was not possible to be satisfied about whether the activities of the trust are genuine. The Income Tax Appellate Tribunal, Delhi (for short, the 'Tribunal') reversed the orders of the Commissioner. The Revenue Department approached the High Court by way of filing an appeal. The High Court upheld the order of the Tribunal and came to the conclusion that in case of a newly registered trust even though there was no activities, it was possible to consider whether the trust can be registered under section 12AA of the Act. This judgment is assailed before us.</p> <p>Page 6 2"" Para</p> <p>Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision includes 'proposed activities'. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and</p>

	<p><i>whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust.</i></p> <p><i>Page 7 last para</i></p> <p><i>In the result, we find that there is no reason to interfere with the impugned judgment of the High Court of Delhi. The appeal is, accordingly, dismissed.</i></p> <p><i>A copy of referred judgment is already annexed at page no. 86 of paper book.</i></p>
<p><i>CIT v/s M/s. Shreedhar Sewa Trust, ITA no.33 of 2017, Hon'ble Allahabad High Court</i></p>	<p><i>Para no. 3 ////////</i></p> <p><i>The preponderance of the judicial opinion of all the High Courts including this court is that at the time of registration under section 12AA of the Income Tax Act, which is necessary for claiming exemption under sections 11 and 12 of the Act, the Commissioner of Income tax is not required to look into the activities, where such activities have not or are in the process of its initiation. Where a trust, set up to achieve its objects of establishing educational institution, is in the process of establishing such institutions, and receives donations, the registration under section 12AA cannot be refused, on the ground that the trust has not yet commenced the charitable or religious activity. Any enquiry of the nature would amount to putting the cart before the horse. At this stage, only the genuineness of the objects has to be tested and not the activities, which have not commenced. The enquiry of the Commissioner of Income tax at such preliminary stage should be restricted to the genuineness of the objects and not the activities unless such activities have commenced. The trust or society cannot claim exemption, unless it is registered under section 12AA of the Act and thus at that such initial stage the test of the genuineness of</i></p>

	<p><i>the activity cannot be a ground on which the registration may be refused.</i></p> <p><i>A copy of referred judgment is already annexed at Page-97 of paper book.</i></p>
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7. Learned DR heavily relied on the order of learned CIT(E) and submitted that some of the main objects of the company are commercial in nature, he supported the findings of the learned CIT(E).

6. Considered the rival submissions and material on record. We notice that assessee is a company Registered under Section 8 of the Companies Act, it is important to note that the company was formed on 7.7.2017 and registered before ROC on 11.7.2017 and applied for registration under section 12A on 7.12.2017. We also notice that the assessee is a non-profit organisation registered under the Companies Act 2013 with the main objects are to provide advanced knowledge to the end users about farming by educating to farmers or manufacturers related to agriculture, to develop and introduce developing technology clearly advanced equipment, to conduct research on various issues relating to agriculture and farming and to provide consultation services to the farmers as well as to commercial houses on what should be manufactured and how in order to maximise their produce. We notice from the record that learned Commissioner has no issue as far as the main objects relating to education, introduction of new technology and research to be carried on by the assessee in the field of agriculture.

However the Commissioner noticed and having objections mainly relating to consultancy charges which assessee will be charging to the farmers and other commercial houses who will be utilising the services of the assessee. The objection expressed by the learned Commissioner in particular to the main objects relating to the consultancy charges i.e., objects No. vii, viii and ix of the Memorandum of Association. The learned Commissioner opined that in order to grant registration under section 12 A, two conditions are to be satisfied that is objects of the trust or institution should be charitable and the genuineness of the activities as carried on by the trust or institution pursuance of its object. We notice that the assessee has just incorporated and has not carried on any activities considering the fact that assessee can start the activities only after receiving AIDS or grants from other institution. The assessee can receive grants only when assessee is properly registered under Various Acts to demonstrate that it is actually doing charitable activities. One of them is obtaining 12A registration. We understand the significance of approaching the income tax authorities by the assessee. Since assessee has not carried on any activities and merely seeking registration under section 12A and assessee could not substantiate by submitting any proper documentation before the Commissioner (Exemp.). We are in agreement with the learned Commissioner (E) that assessee has to satisfactorily demonstrate the charitable objects and activities to be carried on by it. We notice that

learned Commissioner (E) had satisfied with regard to other aspects of the main objects that is education, developing advanced technology, research activities on agriculture and however expressed objections only relating to consultation charges on such services which the assessee will provide to commercial houses and the farmers. No doubt the 3 objects clauses on which learned Commissioner expressed apprehension that it connotes prima facie commercial in nature. In our considered view, the intention of the assessee is to provide charitable activities by providing education to the farmers and the commercial house, developing technology and by doing research on agriculture, they intend to claim fees or certain charges as compensation for providing such charitable activities. By mere reading the objects clauses on consultancy charges, we cannot form an opinion that it will be only on commercial terms. The assessee may be merely charging the compensation in order to cover its administration expenses and relevant cost on such research activities. It is not possible to evaluate the activities of the assessee and the fees which assessee will be collecting from the service receivers without giving any opportunity to them. The various courts have held that it is important to consider and verify the objects of the institution and as long as the objects of the institution are charitable in nature, the activities carried on by the assessee may be evaluated at the time of assessments. In our considered view the assessee should be granted registration under

section 12A of the Act. Therefore, we are directing learned Commissioner to grant the registration under section 12A of the Act to the assessee.

8. In the net result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 27.05.2021

**Sd/-  
C.N. PRASAD  
JUDICIAL MEMBER**

**Sd/-  
S. RIFAUR RAHMAN  
ACCOUNTANT MEMBER**

**MUMBAI, DATED: 27.05.2021**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury  
Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai