

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR  
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं./ITA No.207/RPR/2019**

(निर्धारण वर्ष / Assessment Year : NA)

Chhattisgarh State Cricket Sangh 35/75, Punjabi Colony, Katora Talab, Raipur	Vs	CIT(Exemption), Bhopal
PAN No. : <b>AABTC 1016 F</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri Praveen Jain, CA
राजस्व की ओर से /Revenue by	:	Shri P.K.Mishra, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	27/07/2022
घोषणा की तारीख/Date of Pronouncement	:	31/10/2022

**आदेश / O R D E R**

**Per Arun Khodpia, AM:**

This appeal is filed by the assessee against the order passed by the CIT(E), Bhopal, dated 28.09.2019, on the following grounds :-

1. *That Ld. CIT (Exemption) has rejected the Application for 12AA without appreciating the entire facts and submission made by the applicant.*
2. *That rejection of application without stating continuation of previous approval granted vide order u/s 12AA of the IT Act, 1961 dated 09.08.2019 is unjustified and against the law of natural justice.*
3. *That modification in Memorandum containing the Objects by the appellant is not suo motto but by virtue of direction of the Supreme Court. However even after modification the predominant Object of the Society remains unchanged i.e "Promotion of Cricket" thus rejection of application is not justified.*
4. *That the prominent object of the assessee as per previously approved object and modified object remained same i.e. "Promotion of Cricket" and in terms of direction of Hon'ble Supreme Court of India hence rejection of application is unjustified.*
5. *The applicant has submitted proposed changes in Object before Registration by the Registrar of Firms and Society and before adoption by the applicant society. Rejection of*

*Application even after the compliance of pre-Conditions of Registration is unjustified.*

6. *That conditions on which registration were previous granted are complied and even after modification in wordings of Objects, Main/ predominant Object of the Society remains the same i.e "Promotion of Cricket" hence rejection of application is not justified.*
7. *That the Ld. CIT(E) has not raised any objection w.r.t. object of the society or w.r.t. genuineness of the activities of the society thus rejection of application is not justified.*
8. *The appellant reserves the rights to add, amend, alter and delete the ground (s) of appeal at the time of hearing the appeal.*

2. Against the rejection of application of the assessee for registration u/s.12AA of the Act by the CIT(E), the assessee is now in appeal before the Tribunal.

3. Ld. AR before us submitted that the assessee society has submitted a letter for withdrawal of its application for registration u/s 12AA filed on 31.03.2019. The withdrawal was sought with a request and understanding that the registration u/s 12AA granted to assessee on 09.08.2019. It is also submitted that as per directions of the Hon'ble Supreme Court the assessee had made certain modifications in the objects of the trust, keeping the predominant object of the society unchanged and were duly submitted to the Department. Ld AR has drew our attention to page 242 of the paper book showing us a letter issued by The Commissioner of Income Tax (Exemption), Bhopal dated 23-11-2020 stating that the approval u/s 12AA granted to the assessee dated 09.08.2019 shall continue to be in force. This was thus the submission of the assessee that the order of Ld CIT(E) dated 28.09.2019, rejecting the application of assessee for registration u/s 12AA treating the same as

withdrawn without any mention about the continuation of registration which was granted to the assessee vide order 254/12AA/2019-20/11/3456 dated 09/08/2019 was without appreciating the entire facts of the issue was unjustified and against the principle of natural justice.

4. In order dated 28.09.2019, Ld CIT(E) has observed as under :-

*The above named Trust has filed an application in form no. 10A seeking registration u/s 12AA of the Income Tax Act, 1961 on 31/03/2019. The order u/s 12AA(1)(b)(i)/254 of the Income Tax Act, 1961 was passed on 09.08.2019 granting the Registration u/s 12AA to the Assessee w.e.f 01/04/2013.*

*Assessee Trust has submitted a letter dated 23/09/2019 requesting therein to treat its application for grant of exemption u/s 12AA of the I.T. Act as withdrawn, a copy of which is placed on record.*

*Since the assessee Trust, itself has requested to withdraw the application filed for exemption u/s 12AA of the Income-tax Act, 1961, Therefore, the application filed on 31/03/2019 in form no. 10A is hereby treated as rejected as withdrawn.*

5. On the basis of the impugned rejection order dated 28/09/2021, case of the assessee was selected for scrutiny for the AY 2019-20, exemptions were denied and an addition of Rs. 14,35,82,255/- was made. It was the prayer that the order of rejection passed by Ld CIT(E), without considering the request of the assessee that the assessee has already granted registration vide order dated 09.08.2019 on his application dated 11.11.2013 as per direction of the ITAT vide order dated 16.05.2019, therefore a subsequent application dated 31.03.2019 made before granting of the order by the ITAT needs to be withdrawn, may please be vacated. It is submitted that continuity of the force of registration granted vide order dated 09.08.2019 which was never cancelled, shall remain as it is.

6. In support of the contentions Ld AR of the assessee has placed reliance on the following judgments:-

**(i) CIT Vs. Ved Niketan Dham Public Charitable Trust, reported in (2013) 70 Taxman 115 (P&H), wherein it was held that:-**

*Charitable trust-Registration under s. 12AA-Applicability of s. 12A(1)(ab) and proviso to s. 2(15)-Assessee BCCI was granted registration under s. 12A on 12th Feb., 1996-However, it applied for fresh registration in view of the amendment of its 'MoA, and rules and regulations', to implement the recommendations of the Justice Lodha Committee as approved by the Supreme Court-Comparison of the perusal of the object clauses in the two sets of MoA does not show any change in the present MoA which is contrary to the corresponding clause in the earlier MoA-Any changes to bring out reforms and specifically approved by the Supreme Court, cannot, by any stretch of logic, dilute the fundamental objective of promoting the game of cricket, and "not in conformity" with the objects all along espoused by the BCCI and as set out in the earlier MoA-Provisions of s. 12A(1)(ab) come into play not simply when there is a modification per se in the Objects of the assessee trust or institution but when the modifications are such that they do not conform to the conditions of registration i.e., the conditions in the memorandum of association on the basis of which the registration under s. 12A was obtained-Sec. 12A(1)(ab) specifically refers to 'objects' of the assessee trust or institution, and, it cannot, therefore, be open to the Principal CIT to go beyond the 'objects' so far as jurisdiction under s. 12A(1)(ab) is concerned- Thus, the condition precedent for invoking s. 12A(1)(ab), is not satisfied on the facts of the case-Mere fact that the assessee filed an application under s. 12A(1)(ab), even as it is all along contending that there is no material change in the object clause so as not to conform to the objects clause in the original MoA, cannot vest jurisdiction in the Principal CIT to deal with the application on merits- There is a vital distinction between 'object' and 'power'-Object of the assessee is the promotion of the game of cricket and it has powers to hold IPL tournament for achieving this objects-Whether this power of conducting IPL tournament is exercised with predominantly pecuniary gains in mind or not is a different aspect-So far as the provisions of s. 12A(1)(ab) are concerned, the Principal CIT was only required to examine the objects of the institution and not to extend her considerations to the powers vested in the institution-Principal CIT was not justified in declining registration by invoking proviso to s. 2(15) on the ground that the IPL activities are in the nature of commercial activities and cross the threshold limit specified in exceptions to the proviso to s. 2(15)-So far as registration under s. 12AA is concerned, proviso to s. 2(15) has no application- Thus, application of proviso to s. 2(15), even if that be so, cannot be reason enough to decline registration under s. 12AA-*

*Merely because a sports tournament is structured in such a manner so as to make it more popular, resulting in more paying sponsorships and greater mobilization of resources, the basic character of the activity of popularizing cricket is not lost- Therefore, assessee is entitled to continuance of its registration under s. 12A.*

**(ii) Board of Control for Cricket in India Vs. Principle CIT, (2021) 214 TTJ (Mumbai) 702, wherein ITAT Mumbai has held that:-**

*A perusal of s. 12AA(3) reveals that a precondition to cancellation of registration are findings that activities of the trust are not genuine or are not being carried out, in accordance with objects of the trust. Thus, before cancelling registration, a CIT is required to record a finding that activities of the trust are not genuine or are not being carried out, in accordance with objects of the trust. A perusal of the order passed by the CIT reveals that he did not record any finding as required by s. 12AA(3) of the Act. The Tribunal, therefore, rightly reversed the order passed by the CIT. There is no reason arising whether from arguments advanced or from the order passed by the CIT to take a different view. (Para 6)*

7. It was the prayer of the assessee that :-

*The assessee is duly registered u/s 12AA of the IT Act, 1961 wef 01.04.2013 and its registration has never been cancelled by virtue of CIT (E) Order dated 23.11.2020.*

*Hon. CIT(E) has rejected the Application in form 10A made on 31103/2019, since same was not the Statutory Requirement and was amounting to duplicity. CIT(E) has never doubted the Objects or Activities of the Applicant.*

*Cancellation of Registration of the already registered entity can be done u/s 12AA(3) if non genuine Activity are being conducted. Here the Order has been passed u/s 12AA(1)(ii), merely rejecting the present application. However, Rejection of Application without passing speaking order is unjustified. CIT (E) should have passed speaking Order stating non Requirement of present Application in Form 10A leading to duplicacy as Registration has already been granted on 09/08/2019 by virtue of IT AT direction.*

8. On other hand, Id. Sr. DR relied on the order of Id. CIT(E) and submitted that the Ld CIT(E) has rightly rejected the application of the assessee for registration. Thus deserves to be sustained.

9. We have heard rival submissions and perused the material evidence available on record.

10. On perusal of the rejection order of the Ld CIT(E) dated 28/09/2019 against which the assessee is in appeal before us, it is observed that the reason of rejection stated was withdrawal of application dated 31.03.2019 by the assessee trust, itself. It is relevant to mention that the assessee was already in possession of registration u/s 12AA granted on 09.08.2019 towards its application dated 11.11.2013, as allowed by order of ITAT dated 16.05.2019, thus has requested for the withdrawal of its another application subsequently made on 31.03.2019. Ostensibly, the request for withdrawal was with a prayer to keep the continuity of the registration granted u/s 12AA dated 09.08.2019. The request of the assessee to withdraw the application was accepted by the Ld CIT(E) and application in form no. 10A was rejected as withdrawn, later based on the impugned order having communication no. ITBA/EXM/-1/2019-20/1018435126(1) dated 28.09.2019, considering that the registration granted to the assessee u/s 12AA has been cancelled, exemption was denied, consequently, the amount applied by the assessee society for charitable purposes was brought to tax by the concerned AO.

11. Meanwhile, subsequently to the impugned rejection order dated 28.09.2019, on 23-11-2020, a letter in response to intimation of modification in Object clause of the bye laws of the Society was issued by Commissioner of Income Tax (Exemption), Bhopal, the same is extracted as under :



**GOVERNMENT OF INDIA**  
**Ministry of Finance (Department of Revenue)**  
**OFFICE OF THE COMMISSIONER OF INCOME TAX (EXEMPTION)**  
**2<sup>nd</sup> FLOOR, METRO WALK, E-5, ARERA COLONY, BHOPAL-462016**

F. No. CIT (E)/BPL/12AA/2020-21/

Dated; 23 November, 2020

To;

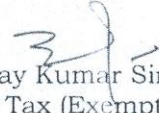
The Secretary  
 Chhattisgarh State Cricket Sangh  
 35/75, Punjabi Colony, Kotara Talab  
 Raipur (Chhattisgarh) - 492001

Sir,

Sub: - Intimation of Modification in Object clause of the bye laws of Society-  
 Chhattisgarh State Cricket Sangh, Raipur, Chhattisgarh (PAN- AABTC1016F) - reg.

Reference is made to your application dated 05 October, 2019 in regard to the modification in clause of the bye laws of the society along with the submissions including order of Hon'ble Supreme Court of India in the Civil Appeal No. 4235 of 2014 Board of Control for Cricket in India and Ors. Vs. Cricket Association of Bihar & Ors. and subsequent change of object of the society as per the direction of the Apex court made with the Registrar of Firm & Society, Chhattisgarh vide Amendment number 122200852903001 dated 27.09.2019 and Registration order u/s 12AA (1)(b)(i)/254 vide CIT (E)/BPL/ITAT Appeal effect u/s 254/12AA/2019-20/11/3456 dated 09/08/2019. u/s 12AA (1) (b) (i)/254 of the Act dated 09/08/2019.

Considering the Order of Hon'ble Supreme Court of India (supra), modification in the object with the Registrar of Firms & Society, Raipur and satisfying upon that predominant object i.e. "Promotion to Cricket" remains unchanged, the 12AA approval granted by this office vide F.No. CIT(E)/BPL/ITAT Appeal effect u/s 254/12AA/2019-20/11/3456 dated 09/08/2019 shall continue to be in force with the same terms and conditions as enumerated in the order u/s 12AA (1)(b)(i)/254 vide CIT (E)/BPL/ITAT Appeal effect u/s 254/12AA/2019-20/11/3456 dated 09/08/2019.

  
 (Abhay Kumar Singh)  
 Commissioner of Income Tax (Exemption)  
 Bhopal

12. On perusal of the above extracted letter, it is discernible that the approval granted to the assessee society by the Commissioner of Income Tax (Exemption), Bhopal, vide order F. No. CIT(E)/BPL/ITAT Appeal effect u/s 254/12AA/2019-20/11/3456 dated 09/08/2019 was in force and shall continue to be in force. Thus, denial of exemption based on an earlier order dated 28.09.2019 was not justified when an order by the Ld

CIT(E) dated 23-11-2020 was in place clarifying that the registration of assessee society u/s 12AA granted on 09/08/2019 is in force.

13. After considering above facts, in the given circumstances, admittedly the assessee is in possession of a valid registration granted to it vide F. No. CIT(E)/BPL/ITAT Appeal effect u/s 254/12AA/2019-20/11/3456 dated 09/08/2019, which was never revoked by the department. However, cognizance of the earlier rejection order by the AO and rejection of the claim of assessee regarding exemption for application of funds used for charitable purposes shows there was a communication gape within the department itself, therefore we are of the considered opinion that the Ld CIT(E) should revisit his impugned order dated 28.09.2019, clarify the status of the assessee with regard to its registration U/s 12AA and issue directions to the authorities below to grant exemption to the assessee society as per law, thus we are restoring this issue back to files of the Ld CIT(E) to deal with this limited issue in terms of our observations.

14. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in pursuance to Rule 34(4) of ITAT Rules, 1963 on 31/10/ 2022.

**Sd/-**  
**(RAVISH SOOD)**

न्यायिक सदस्य / JUDICIAL MEMBER

रायपुर/Raipur; दिनांक Dated 31/10/2022

*Prakash Kumar Mishra, Sr.P.S.*

**Sd/-**  
**(ARUN KHODPIA)**

लेखा सदस्य / ACCOUNTANT MEMBER

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT,  
Raipur
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Assistant Registrar)**

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur