

**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.47/RPR/2020**

The Confederation of Real Estate Developers Association of India Chhattisgarh	Vs	CIT Exemption, Bhopal
<b>PAN No. :AAHAT 8139 R</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Ravi Agarwal, CA
राजस्व की ओर से /Revenue by	:	Shri S. K. Meena, CIT-DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	14/06/2023
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	15/06/2023

**आदेश / O R D E R**

**Per Arun Khodpia, AM :**

This appeal of the assessee is directed against the order passed by the Commissioner of Income Tax (Exemption), Bhopal, dated 31.12.2019.

In this appeal following grounds are raised:-

*"1. That, on the facts and in the circumstances of the case, the learned CIT grossly erred to deny registration to the appellant u/s 12AA.*

*2. That other ground shall be pressed at the time of hearing."*

2. The brief facts of the case are that the assessee is a society, namely Confederation of Real Estate Developers Association of India, Chhattisgarh. The main object of the society is to coordinate among the real estate builder and to provide information regarding new technology in the field of building construction and to set better quality standards in building construction. Assessee had filed an application for registration u/s 12AA on

15<sup>th</sup> June, 2019. The application submitted by the assessee was rejected by the Id. CIT(E), Bhopal vide order dated 31<sup>st</sup> December, 2019. The reasons assigned for the rejection were that the assessee trust has failed to furnish the self-attested copy of registered bylaws, also the assessee has failed to furnish the detail note on its activities hence the conditions of rule 17A(1)(c) were not complied by the assessee. The 2<sup>nd</sup> reason mentioned by the Id. CIT(E) was that the activities of the assessee were treated as working for the benefit of its members or working for the benefit of a particular group of classes i.e. Real Estate Builder and Developers, it was the observation of Id. CIT(E) that the assessee trust is primarily and substantially engaged in the field of Real Estate Construction by providing better information, new technology etc. to builders and developers. The Id. CIT(E) has further observed that the society is also charging fee from its members, rather the fees charge of the membership is the main source of income of the society and in return it provides services which helps its members to enhance their commercial activities in real estate, in other words, the society is helping and working for commercial activities of its members. The services rendered are definitely commercial in nature and the definitely hit proviso to section 2(15) of the Act. Therefore, the society is considered as engaged for the benefit of one group or class of the people i.e. Builders and Developers and Real Estate but not for the benefit of public at large. In conclusion, the application filed by the assessee for registration u/s 12AA was treated as not eligible for approval u/s 12AA of the Act and accordingly, the registration requested was denied.

3. Aggrieved with the decision of the Id. CIT(E), wherein the application for registration for granting of approval u/s 12AA was denied by the Id. CIT(E), the Id. AR submitted that the order of the Id. CIT(E) is misplaced on the facts, the assessee has submitted all the required information before Id. CIT(E)-online mode, ITO (E) – physically and again before the Id. CIT(E)-uploaded online on portal i.e. 3 times, however, the observation of the Id. CIT(E) that the assessee has failed to provide the copy of registered bylaws of the society was a absolutely false observations.

4. In support of the contention, Id. AR drew our attention to page 1 to 4 of the paper book wherein copy of form 10A submitted online by the assessee on 15<sup>th</sup> June, 2019 was placed. On perusal of the referred form 10A (page 1-4), at page 3 of the form at bottom specific entries showing that attachments were also uploaded is evident, such attachment files are named as TRUST\_CREATION.pdf, TRUST\_ACCOUNTS.pdf, PUBLIC\_TRUST.pdf and ACTIVITIES\_NOTE.pdf. The Id. AR further submitted that the attachments were consisting of by-laws of the society, accounts, activities and all the information required along with the Form 10A as mandated by the statute. As per, Id. AR, subsequently a query letter dated 30<sup>th</sup> August 2019 was issued by ITO(Exemption)-1, Raipur, advising the assessee to submit certain information, with respect to assessee's application for grating of registration u/s 12AA, the list of the information sought by the ITO(E) includes copy of by-laws of trust /institutions and about brief note on activities of the assessee trust. The copy of the letter of

ITO(E) was placed at page 12 of the paper book, all the requisite information sought by the AO were submitted by the assessee, a letter showing such compliance by the assessee was placed at page 13 to 16 of paper book.

5. The Id. AR further drew our attention to page 41 of the paper book which is an online notice / letter issued by Id. CIT(E) dated 11.12.2019, directing the assessee to furnish certain documents / clarifications / information, in compliance, the assessee has submitted required information through the online portal of the Income Tax Department. Copy of acknowledgment for online submission of documents dated 12.12.2019 on the portal of department is available at page 44 of the paper book.

6. Carrying the argument further Ld AR assailing the solitary controversy raised in this appeal before us, has submitted that the Id. CIT(E), Bhopal has completely lost the sight of the fact that all the requisite information was thrice furnished by the assessee, time and again as and when directed by the department. It was the contention of the appellant that the required information was submitted by the assessee 3 times, however, no cognizance or consideration was given in the observation by the Id. CIT(E), on the contrary, it is observed that the assessee was failed to furnish self-attested copy of registered by-laws and also failed to furnish the details note on its activities. It was the submission of Id. AR that assessee has fully complied at all times as and when the information was sought by

the department, therefore, the basis / foundation on which the registration u/s 12AA was denied is unjustified and uncalled-for. It was therefore, the prayer that the application of the assessee should be examined with the proper facts and evidence submitted by the assessee and after appreciating the facts in its entirety the registration u/s 12AA has to be granted to the assessee.

7. The Id. CIT-DR on other hand vehemently supported the order of Id. CIT(E).

8. We have considered the rival submissions, admittedly, as per documents furnished before us, on perusal of copies of those documents, it is an undisputed fact that the assessee has submitted the information as sought by the department from time to time, but content of the information shared is not discernible from the copies of acknowledgment of online submission by the assessee having name of files attached therein, however, hard copies of the documents and information submitted before ITO(E), it is clearly imminent that the assessee has complied with all the required information as requisitioned by the department. Since, the observation of the Id. CIT(E) was based on the wrong assumption that the information sought was not furnished by the assessee was a totally misconceived belief, thus, the same is bereft of merits and needs to be re-visited and the application of the assessee shall be considered again in the light of all the available information, consequently, in all fairness, in the

interest of principle of natural justice, with a thoughtful consideration of the facts submitted, we are of the considered view that the issue raised under the present appeal, should be back to the files of Id. CIT(E) to re-visit and dispose off the application of the assessee for grant of registration U/s 12AA as per provisions of the Act, considering all the available material evidence, information, facts and circumstances of the matter. Reasonable opportunity of being heard shall be granted to the assessee to represent its case.

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

Order pronounced in the court on 15/06/2023.

Sd/-

Sd/-

**(RAVISH SOOD)**

न्यायिक सदस्य / JUDICIAL MEMBER

**(ARUN KHODPIA)**

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 15/06/2023

Ganesh Kumar, P.S(on tour)

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