

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

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 231/Coch/2024  
Assessment Year: 2024-25**

Sree Thyagabramha Sangeetha Sabha  
Paliyam Road, Thrissur 680001  
[PAN: AAZTS9054M]

..... Appellant

Vs.

Commissioner of Income Tax (Exemption)  
Aayakar Bhavan, Old Rly. Station  
Ernakulam 682018

..... Respondent

Appellant by: ----- None -----

Respondent by: Shri Sanjit Kumar Das, CIT-DR

Date of Hearing: 20.11.2024

Date of Pronouncement: 29.11.2024

**ORDER**

**Per: Inturi Rama Rao, AM**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Exemption), Kochi dated 30.01.2024 passed u/s. 12AA of Income Tax Act, 1961 (hereinafter "the Act").

2. Brief facts of the case are that the assessee is a trust formed with the object to assist and promote Karnatic/Hindustani/other musical activities/programmes. The assessee had filed an application in form 10AB u/s. 12AA of the Act seeking registration vide application dated 01.07.2023.

3. The learned CIT (Exemption), Kochi rejected had not granted registration stating that conducting Karnatic/Hindustani music programs is not a charitable activity within the proviso to section 2(15) of the Act.

4. Being aggrieved, assessee is in appeal before the Tribunal.

5. We heard the rival submissions and perused the material on record. The only issue in the present appeal is whether the learned CIT (Exemption) is justified in refusing to the grant of registration u/s 12AA of the Act. Now, it is a settled position of law that at the time of grant of registration, the Id. CIT, Exemption can only look into two aspects i.e. (i) whether the objects of the trust or society are charitable in nature and (ii) genuineness of the activities of the trust or society in the light of the law laid down by the Hon'ble Apex Court in the case of *Ananda Social and Educational Trust vs. CIT*, 272 Taxman 7. It is also equally settled position of law that the grant of registration and assessment are two separate and distinct procedures prescribed under the Income Tax Act. The issues of assessment cannot be considered at the time of grant of registration as held by the following decisions :-

- (i) *Fifth Generation Education Society vs. CIT*, 185 ITR 634;
- (ii) *Shantagauri Ramniklal Trust vs. CIT*, 239 ITR 528;
- (iii) *M. Visvesvaraya Industrial Research And Development Centre vs. ITAT*, 251 ITR 852;
- (iv) *New Life in Christ Evangelistic Association vs. CIT*, 246 ITR 532;
- (v) *N.N. Desai Charitable Trust vs. CIT*, 246 ITR 452; and,
- (vi) *CIT vs. Vijay Vargiya Vani Charitable Trust*, 369 ITR 360.

6. On perusal of the impugned order it would be evident that the learned CIT (Exemption), while considering the application for grant of regular registration, had considered the issues which are relevant for assessment proceeding. The assessee utilised or otherwise of income for charitable purpose falls under the realm of assessment proceedings. It is the trite law that the registration proceeding and assessment proceeding are distinct and separate. At the time of grant of registration the CIT (Exemption) can only look into the objects of the trust or the area, specified u/s. 12AB(4) of the Act, which came into force w.e.f. 01.04.2021. Thus, in our considered opinion the CIT (Exemption) had travelled beyond the power provided u/s. 12AB(4) of the Act. Since the CIT (Exemption) had no occasion to examine the nature of objects and the violations specified u/s. 12AB of the Act, the matter is required to be remitted back to the file of the CIT (Exemption) for de novo disposal in accordance with law after affording reasonable opportunity of hearing to the assessee.

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

Order pronounced in the open court on 29<sup>th</sup> November, 2024

Sd/-  
**(PRAKASH CHAND YADAV)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 29<sup>th</sup> November, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar  
ITAT, Cochin