

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

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 447/Coch/2024
Assessment Year: 2024-25

Energy Management Centre, Trivandrum, Srikrishna Nagar, Kerala - 695017 <b>PAN NO : AAATE1024A</b>	<b>Vs.</b>	CIT (Exemption), Kochi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri. Mathew Joseph, CA
<b>Respondent by</b>	:	Shri. Sanjit Kumar Das, CIT DR

<b>Date of Hearing</b>	:	03.12.2024
<b>Date of Pronouncement</b>	:	27.12.2024

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against the order of id. CIT (E) dated 26.03.2024 vide DIN & Notice No. ITBA/ EXM/ F/ EXM45/ 2023-24 / 1063392535(1) and Application No. CIT(Exemption),KOCHI/2023-24/ 12AA/ 11133 for the AY 2024-25 passed u/s 12A of the Income Tax Act, 1961 (in short "The Act").

**2.** The assessee has raised the following grounds of appeal:

- 1. The learned Commissioner of Income - Tax, by his order u/s. 12AB(i) (b) (ii) (B), went wrong in rejecting the application for fresh registration made u/s 12A (1) (ac) (ii) for the reason of not commencing any of the charitable activities in the objective in order to satisfy himself about*

*the genuineness of the activities of the institution.*

*2. Any other grounds that may be allowed at the time of hearing.*

**3.** Brief facts of the case are that the assessee is an autonomous body under the Department of Power, Govt. of Kerala, registered under the Travancore-Cochin Literary, scientific and charitable societies Act, 1955 with registration No. 139/96 and came into existence on 07.02.1996. The assessee has been notified as to the "State Designated agency" to coordinate, regulate and enforce the provision of the EC Act, 2001 in the state of Kerala with the concurrence of BEE, Ministry of Power and Govt. of India and for implementing various schemes under the Act. The centre is devoted to the improvement of energy efficiency in the state, promotion of energy conservation and encouraging the development of technologies related to energy through research, training, demonstration programs and awareness creation. The centre is also promoting small hydro power projects.

3.1 The assessee filed form 10AB on 18.09.2023 for regularizing the provisional registration u/s. 12A. The assessee filed details / documents in response to hearing notice dated 04.12.2023. The Id. CIT (E) noted the following defects as below:

1. As per the MoU, Rules and regulations and byelaws, the applicant trust is not having done any charitable activities as per the section 2(15) of the Income Tax Act.
2. The applicant has not produced its activity report on charitable activities done and details of its beneficiaries.

Accordingly, the assessee was directed to file its objections (if any) against rejection of Form 10AB filed for 12A registration on or before 04.03.2024. However, the assessee has not filed any objections. In the opinion of the Id. CIT(E), as the activities of the assessee does not come under the charitable activities defined in Sec 2(15) of the Act, the application in form 10AB filed u/s. 12A(1)(ac)(iii) of the Act was rejected and accordingly, the provisional registration in form 10AC u/s. 12A(1)(ac)(vi) was also cancelled.

**4.** Aggrieved by the order passed by the Id. CIT (E), cancelling the registration, the assessee has filed the present appeal before this Tribunal. The assessee has also filed written submissions along with the acknowledgement receipt of income tax forms filed on 18.09.2023 and true copy of the byelaws amendments comprising 11 pages before us.

**5.** Before us, Id. A.R. of the assessee vehemently submitted that the assessee has submitted the byelaws amendment clauses to the registrar of societies in Feb, 2024 and registrar has also been pleased to pass the amendments. The amended byelaws were received from the society registrar office only after passing the rejection order from Id. CIT (E). Further, AR of the assessee submitted that the assessee had already filed a copy of the annual report detailing the activity of the society along with the audited financial statement. Therefore, Id. CIT (E) is not correct in holding that the assessee has not produced its activity report. Lastly the AR of the assessee submitted that assessee is not doing any trade or business related activity and the entire receipt is grant received from State and Central govt. and other govt. departments. The application for approval was rejected only for want of amended byelaws without giving reasonable opportunity of being heard to the assessee and requested that one more opportunity may be granted to produce all the details before the Id. CIT (E).

6. The Id. D.R. on the other hand supported the order of the Id. CIT (E) and submitted that the Ld. CIT (E) has granted opportunity to file objection in respect to defects pointed out by him but the assessee has not filed any objection and therefore the CIT(E) is right in rejecting the application for the registration.

7. We have heard the rival submissions and perused the materials available on record. The assessee is an autonomous body under the Department of Power, Govt. of Kerala, registered under the Travancore-Cochin Literary, scientific and charitable societies Act, 1955 with registration No. 139/96 and came into existence on 07.02.1996. As claimed by the AR of the assessee, assessee is not doing any trade or business related activity and the entire receipts are grant received from State and Central govt. and other govt. departments. We take a note of the fact that the assessee has amended the byelaws (placed in pg. 5 - 11 of written submissions) which the assessee claim to have received from the Society Registrar office after passing of the rejection order by the Id. CIT (E). Further, on going through the acknowledgment receipt of the Income Tax form dated 18/09/2023, we find that the assessee has filed the annual report as well as audited financials of previous two years which the assessee claims to contain the details of the activities of the society. Further we take a note of the fact that the assessee could not file their objection as observed by the Id. CIT (E) in response to defects pointed out by the Id. CIT (E). This being so, we are of the considered opinion that in the interest of justice and fair play and considering the request of the AR of the assessee as well as considering the amended byelaws being received from the Society Registrar office only after passing the rejection order by the Id. CIT (E), we set aside the entire issue to the file of Id. CIT (E) for fresh consideration in accordance with the law. The assessee is also directed to produce the copy of the amended byelaws along with the

activities report and audited financials to substantiate its claim. Needless to say a reasonable opportunity of being heard must be granted to the assessee. In case of further default on the part of the assessee, they shall not be entitled for any leniency. It is ordered accordingly.

**In the result, appeal filed by the assessee is partly allowed.**

Order pronounced in the open court on 27<sup>th</sup> Dec, 2024

**Sd/-**  
**(Prashant Maharishi)**  
**Vice President**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated: 27<sup>th</sup> Dec, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Cochin.**