

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

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

ITA No. 902 & 917/Bang/2024
Assessment Year: NA

M/s. Infosys Green Forum, No .44, Infosys Avenue, Electronics City, Hosur Road, Bengaluru – 560 100. PAN: AAGCI 2826 K	Vs.	ITO (Exemptions), Ward – 1, Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	S/Shri. Porus Kaka, Sr. Advocate and Manish Kanth, Advocate
Respondent by	:	Shri. Shivanand Kalakeri, CIT(DR)(ITAT), Bangalore.

Date of hearing	:	18.12.2025
Date of Pronouncement	:	12.01.2026

ORDER

Per Prashant Maharishi, Vice President:

1. These are two appeals filed by Infosys Green Forum, [the Assessee/Appellant/Trust]. ITA No. 902/Bang/2024 is filed against the order passed by the CIT (Exemptions), Bangalore (The Ld. CIT) on 26th of March 2024 being order for rejecting the application made by the assessee for registration under section 12 of the Income Tax

Act [the Act] in Form No. 10 AB dated 26/9/2023 and cancelling the provisional registration of the assessee. The second appeal filed by the assessee is against the order passed by the Id. CIT on 26 March 2024 rejecting the application of the assessee for recognition under section 80G(5) of the Act in Form No. 10 AB dated 28/9/2023 as the assessee's application in form No. 10AB dated 26/9/2023 for registration under section 12AB was rejected by the order of even date.

2. The grounds of appeal raised by the assessee in ITA No. 902/Bangalore/2024 are as under:

1. General ground:

1.1. The learned Commissioner of Income Tax (Exemptions), Bangalore [hereinafter referred to as CIT(E), Bangalore for short] has erred in passing the order under section 12AB of the Income-tax Act, 1961 (the Act) dated 26.03.2024, in the manner passed by him. The said order being bad in law is liable to be quashed.

2. Denial of registration under section 12AB of the Act:-

2.1. The learned CIT(E), Bangalore has erred in concluding that the Appellant is not eligible for registration under section 12AB of the Act and erred in cancelling the provisional registration.

2.2. The learned CIT(E), Bangalore has erred in not appreciating that

- i) the Appellant was incorporated under section 8 company of the Companies Act, 2013, to undertake the Corporate Social Responsibility (CSR) activities, on behalf of Infosys Limited, pursuant to the amendment to rule 7(4) of the Companies (Corporate Social Responsibility Policy) Rules, 2014;*
- ii) the aforesaid rule mandated that the CSR amount which may be spent by a Company for creation or acquisition of a capital*

asset shall be held by a company established under section 8 of the Companies Act, 2013;

iii) the Ministry of Corporate Affairs vide General Circular No. 14/2021 dated 25.08.2021 clarified that a company established under section 8 of the Companies Act, 2013 is required to have income-tax registration under section 12A of the Act, to act as implementing agency for undertaking CSR activities.

iv) Where one wing of the Government has taken a policy view, another wing of the same Government cannot take a contrary view.

2.3. The learned CIT(E), Bangalore has erred in concluding that the activities of the Appellant do not fall within the purpose 'preservation of environment' specified under section 2(15) of the Act.

2.4. The learned CIT(E), Bangalore has erred in not appreciating that

i) the Appellant is engaged in the activity of power generation by harnessing solar energy;

ii) the aforesaid activity is notified by the Ministry of Corporate Affairs as an activity qualifying for CSR under 'Renewable Energy Projects' falling within the head 'Environmental sustainability, ecological balance and conservation of natural resources';

iii) the activity therefore qualifies to be considered under the purpose of 'preservation of environment' specified under section 2(15) of the Act.

2.5. The learned CIT(E), Bangalore has erred in concluding that the Appellant engages in the activity of power generation on commercial lines and thus cannot be a charitable activity.

2.6. The learned CIT(E), Bangalore has erred in not appreciating that pursuant to the provisions of the Companies Act, 2013, the Appellant is compelled to transact with its holding company at arm's length price and such mandate imposed by law cannot be held as commercial in nature.

2.7. The learned CIT(E), Bangalore has erred in not appreciating that at the stage of scrutinizing an application seeking registration,

- i) the powers granted under section 12AB entitle him to check the genuineness of activities of the institution; and*
- ii) he is not entitled to check whether such activities are undertaken on commercial basis or otherwise, which exercise is to be undertaken by the Assessing officer on a yearly basis.*

2.8. Without prejudice, the learned CIT(E), Bangalore has erred in not appreciating that the Appellant had undertaken activities which qualify for registration under the purpose 'advancement of any other object of general public utility' specified under section 2(15) of the Act.

2.9. On facts and circumstances of the case and law applicable, registration under section 12AB should be allowed to the appellant under 'preservation of environment' under section 2(15). Without prejudice, registration under section 12AB should be allowed under 'advancement of any other object of general public utility' under section 12AB.

3. Prayer:

Based on the above grounds and other grounds adduced at the time of hearing, the Appellant prays that the order passed under section 12AB of the Act be quashed or in the alternative the registration under section 12AB be allowed to the appellant.

3. Briefly stated the facts of the case shows that assessee company was incorporated under section 8 of The Companies Act, 2013 and registered with the Registrar Of Companies on 31 August 2021. The assessee obtained provisional registration under section 12 AB of the Act in form No. 10AC on 2 October 2021 wherein it was

provisionally registered from assessment year 2022 – 23 to 2024 – 25. Thereafter the assessee filed an application for permanent Registration u/s 12AB of the Act in form No. 10AB on 26/9/2023 seeking regularisation of the provisional registration.

4. The objects of the assessee as per the memorandum of Association of the company were

"(i) to promote commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any other object

(ii) to promote established, developed, own, operate, manage any institution or undertaking and to undertake, carry out, promote, sponsor and assessed any activity in the field of education, medical relief, housing, clean energy, environmental sustainability, ecological balance, social well-being, vocational training, digital literacy, skill development, sports, fine arts, research, artistic pursuits, charity, signs and similar or related areas for the welfare of the society

(iii) without prejudice to the above undertake any or all of the activities set out in schedule VII of The Companies Act, 2013, on behalf of the company's holding company (i.e. Infosys Ltd) or any other company/entity as may be legally permissible from time to time, in accordance with the applicable provisions of The Companies Act, 2013, The

Companies (Corporate Social Responsibility Policy), Rules, 2014 and other applicable laws, each as amended.

5. The fact shows that Infosys Ltd had invested in solar panels and other equipments for solar power projects through its corporate social responsibility funds pursuant to its corporate social responsibility obligations under The Companies Act, 2013. As per notification dated 22 January 2021 issued by the MCA, Companies (Corporate Social Responsibility Policy) Rules, 2014 were amended. According to rule 7 (4) of the said rule, it was made mandatory that CSR amount which may be spent by a company for creation or acquisition of a capital asset shall be held by a company established under section 8 of the Companies Act. Proviso to rule 7 (4) also stated that any capital asset created by a company prior to the commencement of the above amended rules, shall comply with requirements of rule 7 (4) within a specified period. Thus it was mandatory that the existing CSR assets held by a company were also to be transferred to a company established under section 8 of The Companies Act. The formation of the assessee i.e. Infosys Green Forum for generation of clean and green solar power was necessitated as a result of the above amendment. This is so because of the reason that according to section 135 of The Companies Act, 2013 corporate social responsibility activities listed "ensuring environmental sustainability, ecological balance'. Therefore, Infosys Limited invested in the solar panels and equipments for solar power projects, being this capital assets is

required to be transferred in the assessee company. Thus in terms of the above provisions of the Companies Act, and rules of Corporate social responsibility, an 'asset Transfer And Sale Agreement' was entered into on 30 November 2021 where Infosys Ltd transferred the solar panels and other equipments installed under CSR scheme for solar power projects at SIRA taluka, Tumkur, Karnataka to the assessee. For the purpose of transfer of land, on which the solar power plant was constructed by Infosys Ltd, it entered into a lease agreement with the assessee on 16 March 2022. Assessee also entered into power supply agreement on the same date i.e. 16 March 2022 with Infosys Ltd.

6. Thus the main activity of the assessee was generation of power from the solar plant at Tumkur district, Karnataka which is run by its hundred percent shareholder Infosys Ltd, the power generation by the assessee is also sold to Infosys Ltd at agreed rates. On these facts the assessee submitted that its object included 'to carry out promote sponsor and assessed any activity in the field of clean energy, environmental sustainability and ecological balances'. Therefore, its objects falls under the category of 'preservation of environment (including watersheds forests and wildlife as mentioned in the definition of the 'charitable purposes' under section 2 (15) of The Act. Hence, assessee applied for provisional registration under section 12AB which was granted and based on that it applied for the final registration in form No. 10AB of the act on 26 September 2023.

7. The assessee's application was considered by the learned CIT Exemption and he noted that Infosys Ltd set up a 40 MW solar power plant on land admeasuring 226.495 acres situated at Tumkur district Karnataka. The power plant was utilised for captive generation of power by Infosys Ltd originally. Infosys Ltd set up this power plant as part of its corporate social responsibility activity as mandated by the Companies Act. Subsequently, when CSR rules were amended, Infosys Ltd formed the assessee company namely ' Infosys Green Forum' and transferred the assets of the solar power plant. He referred to the annual accounts of the assessee company and noted that assessee's revenue from operations stood at ₹ 34.13 crore for the year ended on 31st of March 2023 which was earned from supply of power to Infosys Ltd. He further referred to the power supply agreement dated 16 March 2022 where the assessee is held to be a power producer and Infosys Ltd is stated to be an off taker. He referred to and put the power purchase agreement from page No. 15 to 19 of his order. He stated that that assessee company is engaged in a commercial venture of generation of power. The agreement clearly elaborates about supply and offtake of electricity along with all other condition between the assessee and its 100 % shareholder i.e. Infosys Ltd. Thus, he held that assessee is engaged in generation and supply of power in a purely commercial manner as a captive power plant of Infosys limited . Thus, he did not accept that solar power plant helps in reduction of pollution and renewable energy source and hence same is eligible to be termed as a 'charitable activity' under the category of

'preservation of environment'. As, according to CIT, Assessee's main activity is of generation of power through solar plant for Infosys but not preservation of environment. He also rejected the explanation of the assessee that since generation of power is carried out by a section 8 company which is a non-profit organisation, it qualifies for exemption under section 11 and 12 of the Act. He rejected this, for the reason that assessee's activity should first fall under the definition of section 2 (15) of the Act. Since generation of power is not a charitable activity, he held that assessee is not eligible for registration under section 12 AB of the Act. He noted that according to the section 12 AB assessee is required to submit necessary documents to prove the genuineness of the activities of the trust or institution and also the compliance of such requirements of any other law as a material for the purposes of achieving its objects. As the assessee's activity of generation of power is not a charitable activity under the category 'preservation of environment' and thus does not fall under the definition of section 2 (15) of the Act. Accordingly, he rejected the application of the assessee for registration under section 12 AB of the Act and also cancelled the provisional registration by passing an order on 26th of March 2024.

8. Assessee is aggrieved with that and is in appeal before us. The assessee has submitted a paper book containing 1294 pages, a legal paper book containing 484 pages. Further this matter was previously heard by a different combination bench and then released, during that hearing some clarifications were sought, in response to that assessee

has further submitted a paper book containing 276 pages. The assessee has also made a written submission on 8 November 2024 which was also rebutted by the learned departmental representative.

9. The learned Authorized Representative Shri Porus Kaka, Senior Advocate made his submissions as under :-

[Reference of factual paper Book]

- i. He first referred to the provisions of section 2 (15) to show that charitable purpose includes 'preservation of energy'. He submitted that solar power project was set up by Infosys Ltd as per its CSR commitment. It was a captive power plant. He further referred to the provisions of the companies act, provisions of the corporate social responsibility rules and subsequent amendment to that. He submitted that, in 2021 Infosys made a capital expenditure which was required to be transferred in a separate company formed under the section 8 of The Companies Act. Therefore, this assessee, Infosys Green Forum, was set up. Solar power generated by this assessee are sold to Infosys Ltd, which is paying for purchasing the power to this company at market rate. He further referred to the provisions of the power purchase agreement wherein it was stated that any excess generation of power over 40 MW is to be sold to DISCOM.
- ii. He further referred to the fact that original provisional registration was granted to the assessee on 2 October 2021. Further finally the registration was rejected on 26th of March

2024 by the impugned order holding the assessee to be not for profit. He extensively referred impugned order and submitted that the learned CIT (Exemption) has erroneously rejected the claim of the assessee.

- iii. He once again referred to the provisions of the charitable purpose contained in section 2 (15) of the Act wherein it is stated that charitable purposes include preservation of environment which is inserted by Finance No. 2 act 2009 with retrospective effect from 1/4/2009. He submits that setting up of the solar power plant is a charitable purpose as it is for 'preservation of environment'. He further referred to certificate of incorporation dated 21 August 2021 issued to the assessee stating that it is a section 8 company registered under that section of the Companies Act 2013 and also pursuant to section 7 (2) of the Act. He further referred to page No. 2 where he has placed the license No. 128314 wherein it is submitted that that this company intends to supply surplus if any or other income and property in promoting its object and to prohibit the payment of any dividend to its members. He further referred to the memorandum of Association of the assessee company wherein in clause No. 3 (a) the object and purpose company are mentioned which is specifically stated to carry out charitable activities. He further referred to clause 3 which is specifically reference made for The Companies (Corporate Social Responsibility Policy) Rules 2014 that it will undertake the

activities set out in schedule VII of The Companies Act, 2013 on behalf of the companies holding company i.e., Infosys Ltd. He referred to page No. 14 of the paper book which is articles of Association of the assessee company. Thus, his contention is that this assessee company is formed with a special object of pursuing the capital asset created by Infosys Ltd under the corporate social responsibility rules, mandatory to be transferred in terms of the provisions of the companies act in a company. Thus, according to him, this assessee company was formed pursuant to a statutory requirement of transferring the capital expenditure of Infosys limited incurred under Infosys's corporate social responsibility.

- iv. Thereafter, he referred to Assets transfer agreement dated 30th November, 2021 between Infosys Ltd and Infosys Green Forum placed at page No. 44 of the paper book to show where Infosys Ltd is shown as a transferor , whereas the assessee is known as a transferee by that agreement wherein Infosys Ltd, who is the owner of the assets, which have been set up as corporate social responsibility funds of the transferor pursuant to its CSR obligation under The Act and such assets are transferred to the transferee being a company Incorporated under section 8 of The Act [Assessee] has agreed to receive from the transferor the assets to the assessee on 'as is where is' basis in compliance with rule 7 (4) of The Companies (Corporate Social Responsibility Policy) Rules, 2014. He further referred to

clause 2 being the transfer of the assets wherein it is mentioned that Infosys hereby agrees to transfer and the assessee hereby agrees to take the transfer of, on the transfer date (14 October 2021), the assets, free from encumbrances, by way of delivery of possession for no money is payable by the assessee to the Infosys Ltd and in compliance with rule 7 (4) of the CSR rules. Thus his argument was that this company was formed in terms of the statutory provision of the Ministry of corporate affairs, CSR assets of The Infosys were transferred at No cost to the assessee.

- v. He referred to the 'Power Supply Agreement' dated 16 March 2022 entered between assessee stated to be power producer and Infosys Ltd (stated to be off taker). According to this agreement, it is mentioned that the assessee is a company Incorporated under section 8 of The Companies Act and it owns and operates the solar energy facility. Further the assessee agrees to supply all the power generated by the solar energy facility at the drawal point to Infosys Ltd. Infosys Limited as off taker agrees that out of all such electricity supplied by the assessee at the delivery point it will off take all such electricity as it is required by it from time to time. Of course, the same was subject to transmission loss component. It was further agreed that the Infosys shall offtake at least 51% of the electricity generated by the solar energy facility. It further states that Infosys holds 100% of the issued and paid-up share capital of

the assessee company and both the parties are in compliance with captive requirement as specified in The Electricity Act, 2003. He further referred to the definition and interpretation mentioned in that agreement of 'captive requirement' and 'drawable point', 'tariff' etc. He referred to the seven drawl points mentioned in the agreement which are the various addresses of Infosys Ltd. He further referred to the tariff which is stated to be ₹ 6.85 per unit, and which shall change in accordance with the provisions of the agreement. He further stated that at page No. 1087 of the paper book which is annexure 6 shows that how the rate of 6.85 per unit is calculated. He submitted that the assessee found current applicable open access charges considered as per the 25 years agreement. Enerpac Energy private Limited was taken as a comparable where the blended tariff was computed at ₹ 6.57 per unit. He further stated that the agreement of Radiance Renewables was also considered where for 15 years the landed tariff at drawable point was considered at Rs. 6.85 per unit. Compared with that the unit cost rate issued by the DISCOM to the industrial tariff rate was found to be ₹ 7.45 per KV. Thus, his argument was that the transfer of power from assessee to Infosys Ltd is at market rate. He further referred to paragraph No. 5.3 of that agreement wherein this tariff shall increase automatically on every fifth anniversary of the commencement date by 5% over the last tariff paid. Thus, his argument was that

there is a 5% increase after every five years. He further referred to the clauses of supply and offtake of electricity, metering, as well as the transmission and distribution loss etc. His argument was thus that the rate paid to the assessee is at Market rate and further as it is a highly regulated business, assuring the rate increase of every fifth year at the rate of 5% is at market rate is at Arm's length rate by Infosys Limited to the assessee.

- vi. He further referred to the annual accounts of the assessee company to show that it does not have any profit and thus it is not a company which is for profit. He submitted that even otherwise the company under section 8 of the companies act 2013 are required to be non-profit-making companies. He submitted that the assessee company has shown excess of income or expenditure of ₹ 558 lakhs as on 31st of March 2022 which is only because of the reversal of the provisions of the material of ₹ 638 lakhs as described in note No. 2.10 of the annual accounts which clearly shows about reversal of Rs. 618 lakhs. Therefore, the assessee has not earned any profit.
- vii. He further submitted that that the land on which the solar plant was built was not on the CSR capital asset owned by Infosys Ltd and therefore it entered into a lease agreement at the rates which are in conformity with the circle rates. He also referred to page No. 580 of the paper book to show that the assessee trust for this proposition he referred to the memorandum of understanding dated 5 September 2023 between the assessee

and gram panchayat wherein the government schools are identified for grant of ₹ 80 Lacs by the assessee. Thus it was stated that assessee is also running the school. Thereafter he referred to the return of income filed, the annual accounts, the notes on the activities of the assessee company is and various correspondence.

[Reference to legal paper Book]

- viii. The learned senior advocate then took us to the provisions of section 135 of the companies act 2013 on corporate social responsibility placed at page No. 1-4 of the legal paper books state that certain classes of companies are mandated to incur corporate social responsibility expenditure. He referred to schedule VII wherein at serial No. (IV) the specific mention of ensuring environmental stability is considered to be the corporate responsibility social activity. Thereafter he referred to the general circular No. 21 – 2014 issued by the Ministry of corporate affairs on 18 June 2014 wherein the clarifications are provided with regard to the provisions of the corporate responsibility under section 135 of the act and it is stated that it should be interpreted liberally so as to capture the essence of the subjects enumerated. The assessee has stated for the reason that the setting up of the solar power plant is part of the corporate social responsibility expenditure of Infosys Ltd. He further referred to clause (Viii) to state that there is a requirement of creating a section 8 company exclusively for

undertaking CSR activities. Thus, he submitted that the setting up of the company is in accordance with the law. He further referred to paragraph 16 of annexure to that circular wherein the renewable energy projects include environmental sustainability, ecological balance in conversation of conservation of natural resources. He further referred to the notification dated 22 January 2021 which is called companies (corporate social responsibility policy) Amendment rules 2021 wherein as per sub rule 4 how the CSR implementation is required to be made is provided. He submits that a company is required to be established, and this company is required to be registered under section 12 A and section 80 G of the act. He also referred to the frequently asked questions on corporate responsibility issued by the Ministry of corporate affairs on 25 August 2021 wherein in paragraph No. 3.13 it was stated that the provisions must be interpreted liberally to capture the essence of the subjects and enumerated in the said schedule (Vii). He further referred to question No. 5.3 of the same circular wherein it is stated that these companies which are set up for the corporate social responsibility are required to have income tax registration under section 12 A as well as under section 80 G of the income tax act to act as implementing agency except for any entities established by Central or State government. Therefore, his submission was this company was set up in terms of the broad regulatory formwork of corporate social responsibility

expenditure incurred by the Infosys Ltd and formed in accordance with those provisions.

10. Thereafter he extensively referred to the order of the learned CIT (Exemption) wherein the assessee has been denied the registration under section 12 A of the Act.
11. The learned authorised representative took us to the various judicial precedents relied upon him
 - i. Punjab Plastic Waste Management Society (ITA No. 17/Chandigarh/2020 dated 14 July 2023). He referred to paragraph No. 65 of that decision to show that this assessee society for seeking registration under the purpose of preservation of environment wherein it is held to be the charitable purpose under section 2 (15) of the act. He submits that the object of the assessee is also preservation of environment by setting up the solar power plant and therefore it also satisfies this purpose.
 - ii. CIT versus Indian Trade Promotion Organisation (2023) 152 taxmann.com 491 wherein it was held that the dominant activity of charitable institutions was not business, trade or commerce but merely because a fee or some other consideration was collected or received by an institution it would not lose its character of having been established for a charitable purpose. He submitted that by this decision the charging of the fees, would not go against the assessee as the

learned CIT (Exemption) has held that sale of power cannot be the business as the dominant activity of the assessee is preservation of environment.

- iii. Huhtamaki Foundation versus CIT (2024) 163 taxmann.com 174 wherein it has been held that in paragraph No. 17 where the recycling of plastic waste where the assessee has earned revenue cannot lead to the conclusion that the recycling of waste of plastic does not fall within the purview of the preservation of environment and thus is not a charitable activity. Therefore, he submitted that sale of power could not obliterate the charitable purpose of preservation of environment.
- iv. In the end he referred to the decision of the honourable Gujarat High Court in case of CIT versus Naroda Enviro Projects Ltd (2020) 118 taxmann.com 378 (Gujarat) wherein also the same principle is applied that where the dominant object of the assessee was preservation of environment, being one of the general public utility, just because its members who are owners of the polluting industries were incidentally benefited due to discharge of their statutory liability by assessee could not make assessee main object non-charitable. He further referred 51 of that decision wherein the provisions of section 2(15) were discussed with respect to the preservation of environment and further paragraph No. 91 of

that decision to show that that assessee was granted and held to be a public charitable trust under section 2 (15).

- v. Commissioner Of Income Tax Exemption Versus Water And Land Management Training And Research Institute (2017) 83 Taxmann.Com 234 were also the preservation of environment was discussed and it was held that it is not a fit case for invoking first proviso to section 2 (15) even though the assessee was providing guidance to farmers and rendering consultancy services to various other organisations as well as by charging certain fees. Therefore he submitted that sale of the power by the assessee company to Infosys Ltd cannot take away the basic dominant purpose of preservation of environment. He submitted that this decision of the honourable Andhra Pradesh High Court has been upheld by the honourable Supreme Court in 156 taxmann.com 193.
- vi. The learned authorised representative thereafter relied upon the decision of the Chandigarh bench in Punjab Heritage and Tourism Promotion Board versus Commissioner of income tax exemption (2025) 179 taxmann.com 259 to submit that even the operation of fuel station (petrol pumps) were also held to be the charitable activity and therefore the case of the assessee is on more sound footings than the issue decided by the coordinate bench in this judgement.
- vii. He further referred to the decision of the Bangalore bench in City Hospital Charitable Trust versus CIT exemption (2025)

175 taxmann.com 716 wherein it is held that while granting registration under section 80 G the examination by the CIT does not cover the examination of surplus accumulation or its utilisation. He therefore submitted that even otherwise the assessee is entitled to registration under section 12 AB as well as recognition under section 80 G of the act.

12. The learned senior advocate submitted that these appeals were already heard by the another bench and during the course of hearing at the time of fixing the same for clarification it was asked that [i] how solar power is a renewable energy and [ii] how solar power helps in preservation of environment, it was submitted that assessee has submitted a paper book containing 276 pages explaining how solar power is a renewable energy and how solar power helps in preservation of environment. He further referred to the several references to the climate change articles along with the journey of Infosys Ltd. to carbon neutrality, Karnataka solar policy 2014 – 21 and pollution control Board clearance issued.
13. Shri Shivanand Kalakeri, Id. CIT DR submitted that.
 - i. the underlying concept of corporate social responsibility is that it should benefit the public at large. He referred to schedule VI of The Companies Act 2013 which is placed at page No. 5 to 8 of the paper book and referred to clause (iv) and also submitted that section 135 of the companies act mandated that such an activity must be for the public benefit. He referred to

that the corporate social activity is *eradicating hunger, poverty, and malnutrition, promoting healthcare including preventive healthcare and sanitation and making available safe drinking water*. He submitted that promoting education is also one of the objects. He stated that promoting gender equality, empowering woman, setting up homes and hostels for women and orphans. All these activities are for *the benefit of the public*. The clause (iv) also speaks that it should result into the benefit to the public. Then only it qualifies as a charitable object.

- ii. It was submitted that here solar power plant is set up by Infosys Ltd out of its corporate social responsibility fund. He referred to the power supply agreement and submitted that the 40 MW power plant set up by the Infosys Ltd in the corporate social responsibility for supplying power only to Infosys Ltd. He referred to the drawl point and stated that all the drawal points are in the name of Infosys. He further stated that power supply agreement also says that power tariff is ₹ 6.85 per kilowatt which is less than the DISCOM power rates. He submitted that had this plant was not set up by the Infosys, the Infosys would have purchased power at the discom rates which is much higher than the above rate. Therefore, there is a direct and dominant benefit to the Infosys Ltd. only.
- iii. He referred to the power supply agreement and submitted that all green benefits accrue to the Infosys Ltd. Therefore, according to him all the benefit of this activity goes to Infosys

Ltd. He submits that this company is not even allowed to take the benefit of green energy which is also taken away by the Infosys Limited. Thus, there is no benefit to the assessee company or to the public and only beneficiary is the Infosys Limited.

- iv. He further referred to the tariff chart and stated that at page No. 1087 assessee wanted to justify that it is supplying power to the Infosys at market rate. But that is not the fact. In fact, Infosys is buying the power from this company at less than Discom rates. There is not a single unit of power is supplied to any other entity.
- v. He submitted that it is a commercial activity carried on by the assessee for the benefit of Infosys Ltd and also at its own detriment, therefore it is not for the public but for the private benefit. There is no element of charity in this whole Transaction. Hence, assessee cannot be granted benefit registration under section 12 AB of the act.
- vi. He submits that provisions of section 2 (15) are for the benefit of public at large. He submits that the dominant object of this is benefit to the public but here the dominant object is to benefit the Infosys Ltd by giving power at reduced price. Only, further namesake benefit to the public is that the power is generated through the solar power plant, which is preservation of environment.

- vii. He submitted that had this power plant been set up in a tribal belt to give power to inhabitants in that area by generating from the solar power plant and the owner of this unit which is hundred percent holding company i.e., Infosys Ltd then it could have been stated to be a corporate social responsibility activity of the assessee. It would have most likely fall into the provision of section 2 (15) of the Act. But the present arrangement of transaction clearly defies any charitable purpose.
 - viii. He submitted that issue is not that the whether the solar power plant set up by the assessee is part of protecting the environment or not, the issue is that whole activity is to be carried out for the benefit of Infosys Ltd and no other benefits accrues to the public at large. Even if there is little bit of public benefit, it is incidental only and not a dominant object.
 - ix. With respect to the various decisions cited by the Id AR, he submits that none of that decision applies to the facts of the case and none of them shows that benefit is not to the public or section of public but to a single entity which is 100 % shareholder of assessee company.
 - x. Therefore, he submitted that the learned CIT (A) is correct in refusing to grant registration to this company under section 12 AB of the act.
14. With respect to the rejection of application for recognition under section 80 G of the Act, he submitted that as the purpose is not

charitable purpose but private and hence, it cannot be granted registration/recognition under section 80 G of the Act.

15. The learned Senior Advocate in rejoinder submitted that solar power project created by the Infosys Ltd falls into the specified category of corporate social responsibility for protection of environment. He referred to page No. 15 wherein at serial No. 16 renewable energy projects are stated to be covered in the CSR activities. He further referred to the provisions of section 8 of the companies act and further the scheme of the CSR stating that the benefit is to the public by setting up the solar power plant.
16. He submitted that his written submission placed on record on 14 September 2018 may be considered.
17. After the argument of both the parties the bench raised a specific query that it seems that there is only one beneficiary of the whole project of setting up the solar power project plant by Infosys Ltd i.e. Infosys Ltd only. Then why the benefit of registration u/s 12 AB of the Act should be allowed to the assessee.
18. In response, the learned Senior Advocate vehemently submitted that -
 - a. Infosys pays to the assessee company the power prices of ₹ 6.85 per unit which is at market rate and therefore there is no benefit to the Infosys Ltd.
 - b. that had this assessee did not produce the power, the power would have been supplied to the Infosys by the discoms through other means which would not have preserved the environment and further at higher cost.

- c. there is no benefit to the Infosys as Infosys has made investment of more than ₹ 3000 crore in setting up the solar power project. Such a huge cost has already been incurred by Infosys in setting up of this plant and therefore there is no benefit to the Infosys.
- d. power is supplied to the grid and not to the Infosys.
- e. The beneficiary is Nation
- f. It is also not the same power which is sold by the assessee's power plant to discom which is being supplied to the Infosys. He submits that all 40 MW produced by the solar power plant goes to the discoms. Therefore, according to him the benefit is to the state where these 40 mega-watt is banked in the state grid. Infosys only get the credit and as it has incurred the cost.
- g. Whatever is the excess power generated goes to the grid and sold by the discoms to the purchasers, who were common public.
- h. Honourable Gujarat High Court in case of Norada Environ [supra] has specifically stated that if the beneficiaries are there, that did not disentitle the assessee for registration under section 12 AB as well as the recognition under section 80 G of the act.

Therefore, he submitted that assessee deserves the registration under section 12 AB of the act and also recognition under section 80 G of the act.

19. The Bench raised a further query that solar power plant is set up with a capacity of 40 MW per annum. Is there any instance where for the any year, Infosys Ltd has consumed less than that capacity. The representative of the assessee stated that there are no such instances.

20. We have carefully considered the rival contention and perused the orders of the learned lower authorities. We have also perused the several judicial precedents cited before us. We have also carefully perused the relevant papers referred before us in the paper books as well as written notes.
21. The issue in this case is whether the assessee deserves registration u/s 12 AB of The Act on the facts stated above.
22. Provisions of section 2 (15) of the Act provides as under: -
- 15) ⁷⁵“charitable purpose” ⁷⁶includes relief of the poor, ⁷⁶education, ⁷⁷[yoga,] medical relief, ⁷⁸[preservation of environment ⁷⁶(including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest,] and the advancement of any other ⁷⁶object of general public utility:
- ⁷⁹**Provided** that the advancement of any other object of general public utility ⁷⁶shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business ⁸⁰, or any activity of rendering any service in relation to any trade, commerce or business ⁸⁰, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless-
- (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility ⁸⁰; and
- (ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;]]
23. Activity of “preservation of environment” was also included in the above definition with retrospective effect from 1/4/2009 by The

Finance Act No 2 of 2009. We do not have any inhibition in holding that setting up of a solar power plant is an activity which preserves the environment. No contrary facts are brought to our notice.

24. Facts in nutshell, shows that Infosys limited set up a 40 MW solar power plant on leasehold land as part of its CSR spending. As the amount spend is a capital expenditure and capital assets are created, as per the new CSR rules, it was required to be transferred to a new section 8 company. Thus, Assessee i.e., Infosys Green Forum, got registered as a non-profit company in terms of provision of section 8 of the companies Act 2013. Infosys Entered into assets transfer agreement where this solar power project was transferred to assessee. It also entered into power supply agreement where in the power produced by assessee from this solar power project was to be captively consumed by Infosys Limited. For which Infosys Limited will remunerate assessee at Rs 6.85 per unit. Claim of The Assessee is that it is at market rate. The Assessee submitted at page no 1087 following working to substantiate that the power purchase rate per unit paid by Infosys Limited to the assessee is at Market rate.

Annexure 6

Enerparc Energy Pvt Limited

• Current applicable Open Access Charges considered (25 Yrs)

Rs/kwh	
PPA Tariff	4.00
Tr. Loss (3.13%) and Banking (2% in Kind)	0.19
Tr. Charges (25% of 1,51,518 Rs/ MW / Month Charges)	0.29
SLDC Charges (INR 40.34/ MW/ Month)	0.00033
CSS (1.86 Rs/kwh)	1.86
Ad.Surcharge (0.23 Rs/kwh)	0.23
Landed Tariff	6.57

Radiance Renewables

PPA Lock-in	10 Years	15 Years
Base Tariff at plant busbar (INR/KWh)	4.42	4.10
OA Charges (INR/KWh)	2.78	2.75
Landed Tariff at drawl point (INR/KWh)	7.20	6.85
Energy available for Withdrawal (KWh)	1,76,69,708	

BESCOM Industrial Tariff

Description	2018		2019	2020	2021
	Jan-18	May-18	May-19	Nov-20	Jun-21
Unit Cost 1st slab (up to 1 Lah units) in Rs.	6.65	6.90	7.10	7.35	7.45
Unit Cost 2nd Slab (after 1 lakh unit) in Rs.	6.95	7.20	7.40	7.65	7.75
Demand Cost – Fixed cost / KVA	210.00	210.00	220.00	230.00	250.00

25. Thus, as the activity of the assessee is "preservation of environment' it claimed as 'Charitable Purpose" and applied for registration u/s 12 AB of the Act.
26. Predominant or primary Object test for "Charitable Purposes" is that benefit must enure to the public or a section/ class of the public, it is also not necessary that all persons universally benefit from the activities mentioned in section 2 (15) of the Act. Benefit to sufficiently wide or defined section of public will suffice so long as private gain to a particular person is not the dominant object. Naturally, incidental benefit to individuals does not disentitle the assessee claiming it to be for "Charitable Purposes".
27. On careful analysis of power supply agreement, assets transfer agreement and other evidence produced before us it demonstrates following scenario: -
 - i. Infosys Limited set up 40 MW the solar power project plant, creating capital assets, which was transferred to the assessee company in terms of provision of section 135 and The Companies (Corporate Social Responsibility) Rules, 2014.
 - ii. This company was to supply power to discoms grid and subject to wheeling and banking loss, there from to the 7 installations of Infosys Limited, Discom will give credit for such power units supplied to Infosys from its regular electricity bills.
 - iii. Capacity of the Solar Power plant is 40 MW. All the time, Infosys has got credit of this power generation. Thus, at no

point the power consumed by Infosys at 7 Drawal point is less than 40 MW. So, there is no instances that any credit of power generated by this solar power plant is given to any other entity than Infosys Limited.

- iv. Thus, Infosys will not be billed by the Discoms to that extent of power units. Discoms will bill Infosys limited for the balance power units after granting credit units of the power Generated from Solar Power plant of this company.
- v. Thus, in nutshell, Infosys will be buying the power from the assessee company to the extent the electricity units, not charged to Infosys limited by Discoms.
- vi. The Infosys Limited has as per Power supply agreement has determined Rs 6.85 Per unit as power charges payable to the assessee company for those units. It is the fact not denied that Discoms Charges higher rate than Rs 6.85 Per Unit to Infosys Limited. As per page no 1087 of the paper book the Discom rate as on June 2021 is Rs 7.45 for units consumed less than 1 lakh unit and after that RS 7.75 per unt. SO, Infosys if this Solar Plant was not set up, would have paid these charges at that rate i.e., Rs. 7.75 per unit to any Discom. So, the assessee company paid by Infosys Limited at Market rate is misnomer.
- vii. This Rate shall increase by 5 % after every five years. Thus, it would be static for five years and then it will be increased by 5 % which would also be stating for next five years. Thus, after first five years, the rate of Rs 6.85 per unit will increase by Rs

0.35 per unit, so the power price would be from 5 th to 10 th year would be Rs 7.20 per unit. It would not have reached even the rates of Discom at present even after 10 years. Thus, the rates agreed by Infosys to be paid to assessee are far less than present Discom rates. This is even after ignoring increased Discom rates after 10 years.

- viii. Further solar power plant would be maintained by the assessee as a business unit as obligation of the power producer as per clause 9 of the Power supply agreement. So, first assessee is paid less than the market rates and then also burdened with operation and maintenance charges.
- ix. All green benefits of the Solar Power Plant would always be with Infosys Limited and assessee company will not have any right over that. It is mentioned that " Off Taker shall have the sole right and entitlements towards claiming any Green benefits available under applicable laws, and power producer shall not take any action and / or commit any omission which may reasonably prejudice such rights / entitlements of the off taker. "It is immaterial whether Infosys has claimed it or not. Thus, this company is also deprived of the benefit arising to it from ' Preservation of environment.' This is mentioned as per clause 8 of the Power supply agreement. Thus, from the CSR assets the Power off taker is also gaining benefit of green benefits.
- x. What is green benefit is also defined ' Means all exemptions, waivers, subsidies, environmental credits, zero emission

attributes, other incentives, or benefits and other rights related to then generation of sale or purchase of electricity (Including tax benefits). Thus, every benefit associated with such ' Preservation of environment' activity shall accrue to the Infosys Limited.

- xi. For Registration of assessee trust u/s 12 Ab and U/s 80 G of The Act, it is immaterial that Infosys Limited has made investment of Rs 3000 Crores in this solar power plant. Infosys has made that expenditure in terms of Section 135 of The Companies Act which is mandatory for it to incur for this plant or any other activity.
 - xii. It is also immaterial that assessee company is also running a school by grant. That may be a separate educational activity.
28. Thus, There is no benefit to the public at large or a section of a public at all. The dominant object of the whole of the exercise is to get the power for Infosys Limited through captive solar power plant shown as CSR activity and then made an attempt to claim the benefit of section 11, 12 of the Income tax Act by obtaining registration u/s 12 AB of The Act and further to obtain recognition u/s 80 G (5) of the Act.
29. In common parlance it is not different from the case that a donor sets up school for his own children and claim it as ' Educational activity",

a company setting up a hospital exclusively for its own promoters / employees and claiming it as medical relief, setting up an own yoga centre for himself and claiming it as 'Yoga' etc. Putting a solar panel over one's house is also preservation of environment, but these are not charitable purposes as these do not have dominant object of benefit to others i.e., public at large. These are benefit to self. In all these cases there is no public benefit at large.

30. Honourable Supreme Court in Commissioner of Income tax, Ujjain vs. Dawoodi Bohara Jamaat [2014] 43 taxmann.com 243 (SC)/ [2014] 222 Taxman 228 (SC) (MAG)/ [2014] 364 ITR 31 (SC)/ [2014] 268 CTR 1 (SC) [20-02-2014] has held that: -

"30. According to Section 2(15), the expression "charitable purpose" has been defined by way of an inclusive definition so as to include relief to the poor, education, medical relief and advancement of any other object of general public utility. A catena of decisions of this Court which have interpreted the said provision and especially the expression "any other object of general public utility" have observed that the said expression is of the widest connotation. The word "general" in the said expression means pertaining to a whole class. (*CIT v. Gujarat Maritime Board* [2007] 289 ITR 139 (SC). Therefore, advancement of any object of benefit to the public or a section of the public as distinguished from benefit to an individual or a group of individuals would be a charitable purpose. (*CIT v. Ahmedabad Rana Caste Association*) [1983] 140 ITR 1 (SC). The said expression would prima facie include all objects which promote the wellbeing of the general public. It cannot be said that a purpose would cease to be charitable even when public welfare is intended to be served.

31. The Constitution Bench of this Court in *Addl. CIT v. Surat Art Silk Cloth Manufacturers' Association* [1979] 2 Taxman 501 (SC) has held that if the primary purpose and the predominant object of a trust are to promote the welfare of the general public the purpose would be charitable purpose. If the primary or predominant object of an institution is charitable, any other object which might not be charitable but which is ancillary or incidental to the dominant purpose, would not prevent the institution from being a valid charitable trust. *Thiagarajar Charities v. Addl. CIT* [1997] 225 ITR 1010/92 Taxman 152 (SC).

34. Indubitably, the word 'charity' connotes altruism in thought and action and involves an idea of benefiting others rather than oneself. (*Andhra Chamber of Commerce (supra)*). It also cannot be lost sight of that the supreme goal of all religions is philanthropy which could be manifested in various forms. It is held that gifts for religious purposes are prima facie gifts for charitable purposes. (*Schoales v. Schoales* [1930] 2 Ch. 75 (CA); *White v. White* [1893] 2 Ch. 41 (CA))

31. As per GENERAL CIRCULAR NO. 14 /2021 [E-F.NO.CSR-05/01/2021-CSR-MCA], DATED 25-08-2021 in para no 4.2 it is asked that whether the companies can undertake any CSR activity mentioned under Schedule VII of the Act for the exclusive benefit of their employees, workers, and their family members?
32. It is replied that Rule 2(1)(d)(iv) of the Companies (CSR Policy) Rules, 2014 states that any activity benefitting employees of the company shall not be considered as eligible CSR activity. As per the rule, any activity designed exclusively for the benefit of employees

shall be considered as an “activity benefitting employees” and will not qualify as permissible CSR expenditure. **The spirit behind any CSR activity is to benefit the public at large and the activity should be non-discriminatory to any class of beneficiaries.** However, any activity which is not designed to benefit employees solely, but the public at large, and if the employees and their family members are incidental beneficiaries, then, such activity would not be considered as “activity benefitting employees” and will qualify as eligible CSR activity.”.

33. We also uphold that the Id CIT(E) has looked at the object and purposes as well as the genuineness of the activity from the angle that whether such activity can be said to be for Charitable Purposes. He holds that it is a commercial venture and for the sale of Power to Infosys Limited only.
34. It is also the argument that two wings of the government cannot take a different view. We find that view of the companies acts as stated above in circular and provisions of section 2(15) of the Act are in consonance with each other and has taken a similar view that activity for the benefit of one person cannot be a CSR activity and off course same is not charitable. Both the acts says that dominant object must be for the benefit of public or a defined section of public.
35. All the decisions cited before us clearly shows that none of those judgements deals with benefit to any particular one entity as dominant objects, which is apparently in case before us. Therefore, the facts of all those judgements do not apply to the facts of this case. In

Commissioner of Income-tax vs. Naroda Enviro Projects Ltd. [2020] 118 taxmann.com 378 (Gujarat)/ [2019] 419 ITR 482 (Gujarat) [29-07-2019] which is operating a common effluent treatment plant in Naroda area in Ahmedabad for various Industrial undertakings operational in that area and that company was working for controlling pollution. The Honourable high court held that dominant object of the assessee was preservation of environment and one of general public utility. Following paragraph of that decision also supports the view that it has to be with dominant object of public benefit: -

"52. It is apposite to state that the definition of the term "charitable purpose" remains an inclusive one and is not an exhaustive or exclusive one. In other words, the purposes similar to those mentioned in the aforesaid definition could also constitute 'charitable purpose' under the Act. The expression 'charitable purpose' is sufficiently wide in scope to include a variety of activities. For instance, promotion of sports and games is a charitable purpose, as is promotion of trade and commerce, *even when the beneficiaries are confined only to a particular line of trade or commodity. However, at the same time, the fact that remote and indirect benefits are derived by the members of the public will not be sufficient to make the purpose a "charitable purpose" under the Act.*

53. The word 'Charity' connotes altruism in thought and action. *It involves an idea of benefiting others rather than oneself.*

54. For a trust to be accepted as a charitable trust for the purposes of exemption, it is necessary that the objects should be specific so as to conform to the requirement of the income tax law in this regard. Where they are too wide, the trust may not qualify for exemption. However, a pragmatic view is required

to be taken while examining the data. The material on record should be analyzed objectively.

55. The onus to prove that the objects are of charitable nature is on the assessee."

"73. The Apex Court in *Ahmedabad Rana Caste Association v. CIT* [1971] 82 ITR 704 (SC) and *CIT v. Ahmedabad Rana Caste Association* [1983] 140 ITR 1 (SC) pointed out that the law recognizes no purpose as charitable unless it is for a public charity. That is to say, a purpose must, in order to be charitable, be directed to the benefit of the community or a section of the community. The expression "object of general public utility", however, is not restricted to the objects beneficial to the whole mankind. An object beneficial to a section of the public is an object of general public utility. The section of the community sought to be benefited must undoubtedly be sufficiently defined and identifiable quality of a public or impersonal nature."

"75. In context with the submission of Ms. Bhatt, referred to above, we may also refer to and rely upon the decision of this Court in the case of *Addl. CIT v. Ahmedabad, Millowners Association* [1977] 106 ITR 725, wherein this Court held as under.

'22. We now proceed to consider whether an object which serves personal interest would fall within the scope of section 2(15) of the Act. There is no dispute that the charitable purposes of relief to poor and educational and medical relief have no relevance to the facts of the present case. It is, therefore, the fourth category of the charitable purpose, namely, the object of general public utility, with which we are concerned in this case. The expression "object of general public utility" appearing in section 2(15) would include only those objects which promote the welfare of general public and not the personal and individual interests of some persons. It is not uncommon to find the objects of

general public utility being in conflict with the object of personal welfare of some specified individuals. It is true, as held by the Supreme Court in the case of *Andhra Chamber of Commerce* [\[1965\] 55 ITR 722 \(SC\)](#), that personal welfare of specified individuals would be incidental or consequential to the main purpose of general public utility, but a converse of this proposition is not always true. Now, if we examine the objects contained in clauses (a), (b) and (c) from this point of view, it will be at once noticed that these objects seek to protect the interest of "millowners and users of motive power" and also of those concerned with them. Clause (b) contemplates the promotion of good relations between the persons and bodies using such powers and clause (c), which is consequential to clause (a) and (b), contemplates doing of those acts and things by which the objects covered by clause (a) and (b) may be attained. Thus, all these three clauses aim at protecting personal interest and not public interests. If this is so, the respondent-association is bound to carry on its activity keeping in mind the narrower concept of promoting the personal and self-serving interests of individuals who are consider "millowners and users of motive power" even when their interest are in conflict with the interests of their own trade or industry. If and when this happens, how can it be said that the respondent-association has carried out an object of general public utility ? General public is undoubtedly interested in trade, commerce or industry conducted by individuals, but it is surely not interested in protecting the personal interests of these individuals if they are in conflict with the interests of trade, commerce and industry. Therefore, when an object seeks to promote or protect the interests of a particular trade or industry, that object becomes an object of public utility, but not so, if it seeks to promote the interests of those who conduct the said trade or industry.

23. This distinction between the protection of the interests of individuals and the protection of interests of an activity, which is of general public utility, goes to the root of the whole problem, and, hence, the Supreme Court has pointedly referred to this problem in *Commissioner of Income-tax v. Andhra Chamber of Commerce* [\[1965\] 55 ITR 722 \(SC\)](#) at page 727 of the report by observing as under :

"It may be remembered that promotion and protection of trade, commerce and industry cannot be equated with promotion and protection of activities and interests merely of persons engaged in trade, commerce and industry."

24. In this case, the Supreme Court has pointed out that even an object beneficial to a section of the public is an object of public utility and that to serve a charitable purpose, it is not necessary that the object should be to benefit the whole mankind or person living in a particular country or province. But, while making these observations, the Supreme Court has been careful in pointing out the distinction between "a section of the public" and specified individuals. Even so far as "a section of the public" is concerned, the Supreme Court has been particular in identifying it in the following terms (page 729) :

"The section of the community sought to be benefited must undoubtedly be sufficiently defined and identifiable by some common quality of a public or impersonal nature : where there was no common quality uniting the potential beneficiaries into a class, it might not be regarded as valid."

25. These observations are repeated by the Supreme Court in the subsequent decision in *Ahmedabad Rana Caste Association v. Commissioner of Income-tax* [\[1971\] 82 ITR 704 \(SC\)](#).

26. These observations supply a complete answer to the contention of the learned Advocate-General that the category of persons covered by the expression "millowners and users of motive power" constitutes a section of the public, which can legitimately form the object of a charitable purpose. The observations make it clear that the section of the public which is to be benefited to make the purpose a charitable one should have a common quality of either a "public" nature or an "impersonal" nature. Can it be said that "millowners and users of motive power" have a common quality of a "public nature" ? If they have any common quality the same is obviously of a "private" nature, as each one of them is concerned with his own interest and shares nothing in common with the public. It was contended that their common quality is the fact that each one of them is either a millowner or a user of motive power. Granting that this is their common quality, it cannot be said that the said common quality possesses the attributes of a public or impersonal nature. **If individuals, whose only common quality is their profession or vocation, can legitimately be invested with the attributes of a public nature, then every partnership, company or an association of persons can be an object of charity, and the trusts created for the benefit of such partnerships, companies and associations would be charitable trusts earning exemption under section 11. Absurdity of such a situation cannot be over-emphasized.**

27. What is the exact nature of "section of the public" which can legitimately become an object of a charity, is considered by Lord Greene M.R. in Powell v. Compton [1945] 1 Ch 123, 129 (CA). In that case a bequest was made for the education of a small number of individual relatives of a testatrix. The question which arose was whether these individuals formed a "section of the public" so as to make the trust a charitable trust. Lord Greene M. R. held that the trust was not a valid trust, making the following observations :

"No definition of what is meant by a section of the public has, so far as I am aware, been laid down, and I certainly do not propose to be the first to make the attempt to define it. In the case of many charitable gifts, it is possible to identify the individuals who are to benefit, or who at any given moment constitute the class from which the beneficiaries are to be selected. This circumstance does not, however, deprive the gift of its public character. Thus, if there is a gift to relieve the poor inhabitants of a parish the class to benefit is readily ascertainable. But they do not enjoy the benefit, when they receive it, by virtue of their character as individuals but by virtue of their membership of the specified class. In such case the common quality which unites the potential beneficiaries into a class is essentially an impersonal one. It is definable by reference to what each has in common with the others, and that is something into which their status as individuals does not enter."

28. Our Supreme Court has approved of this principle in *Ahmedabad Rana Caste Association's* case [\[1971\] 82 ITR 704 \(SC\)](#) and has held that members of Rana caste has a relationship which was an impersonal one dependent upon their status a member of that caste. No such relationship of impersonal nature can be found amongst the millowners and users of motive power, and, hence, none of the objects mentioned in clause (a), (b) and (c) can be treated as objects of public utility."

36. In view of above facts, we have no hesitation in upholding the order of the Id CIT [E] in not granting assessee registration u/s 12 AB of the Act. Accordingly, we dismiss appeal – ITA No.902/Bang/2024 of the assessee.
37. Consequently, we also dismiss appeal – ITA No.917/Bang/2024 of the assessee for claiming recognition u/s 80G of the Act.

38. Both the appeals of the assessee are dismissed.

Pronounced in the open court on this 12th day of January, 2026.

Sd/-

(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 12th January, 2026.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.