

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'A', BANGALORE**

**BEFORE SMT. ASHA VIJAYARAGHAVAN, JM
AND
SHRI S. RIFAUR REHMAN, AM**

ITA No.129(B)/2015

Meerabo Global Foundation,
C/o Vibgyor High , Survey No.46/2,
Vittasandra Village, Begur Hobli,
Bangalore-560 068

PAN No.AABAS3319N

Appellant

Vs

The Commissioner of Income-tax(Exempton.)
CR Buildings, 3rd Floor,, Queen's Road,
Bangalore

Respondent

**Assessee by : Shri Satish R Mody, Advocate
Revenue by : Smt Neera Malhotra, CIT**

Date of hearing : 27-08-2015

Date of pronouncement : 31-08-2015

ORDER

PER SMT ASHA VIJAYARAGHAVAN, JM:

This appeal has been filed by the assessee against the order of the CIT(Exemption), Bangalore dated 29-12-2014 passed u/s 12AA(1)(b)(ii) of the IT Act, 1961, wherein the application for registration of the trust was rejected.

2. The assessee M/s Meerabo Global Foundation has filed an application on 03-06-2014 for registration of charitable or religious trust or institution u/s 12A of the IT Act, 1961.

3. The CIT(Exemptn.), Bangalore held that the application filed is defective and the copy of the Trust Deed filed is defective in a much as the necessary clauses required to be incorporated in the Deed are not forth coming. It was observed by the CIT(Exemptn.) that the necessary clauses to be incorporated in the Deed are 1) Investment clause 2) Account clause 3) Amendment clause 4) Dissolution clause 5) Irrevocability clause 6) Beneficiary clause and 7) Utilization clause. In this connection, the applicant was afforded opportunities of being heard by the CIT(Exemptn.)

4. The CIT(Exemptn.) has held as under;

“ The non-compliance to the statutory requirements, it is clear that the applicant is not interested in prosecution of this application and therefore, deserves to be dismissed on this account alone. The law assists those who are vigilant and not those who sleep over their rights. This principle is embedded in the well known dictum “Vigilantus non-dormantibus subveniunt”. Courts in several cases cases have upheld this dictum. Lack of diligence and follow up on the part of the assessee has been frowned upon by various courts a under;

106 ITR 653 (SC)

118 ITR 461(SC)

286 ITR 688 (MP)

257 ITR 301(Delhi)

S130 Tax man 61 (Mad.)

The application for registration u/s12AA is hereby stands rejected.

Aggrieved, the assessee preferred an appeal before the Income-tax Appellate Tribunal.

The learned counsel for the assessee took us through the Trust Deed produced at pages 19 to 48 of the paper book. He further pointed out the various clauses which are incorporated in the Deed which have been overlooked by the CIT(Exemptn.)

On the request from the Bench, the learned counsel has produced the details as under;

<i>Sl.Nos.</i>	<i>Paper book Page no.</i>	<i>Clause No. of Trust Deed</i>
<i>1. Investment Clause</i>	<i>41</i>	<i>23</i>
<i>2. Account Clause</i>	<i>41</i>	<i>21</i>
<i>3. Amendment Clause</i>	<i>48</i>	<i>35</i>
<i>4. Dissolution Clause</i>	<i>47</i>	<i>34(e)</i>
<i>5. Irrevocability Clause</i>	<i>- A Trust is always irrevocable unless specifically provided</i>	
<i>6. Beneficiary Clause</i>	<i>27</i>	<i>4(a)</i>
<i>7.Utilization Clause</i>	<i>27</i>	<i>4</i>

We find that the assessee has fulfilled all the requirements and the CIT(Exemptn.) has wrongly observed that the applicant is not interested in prosecution of his application, especially when all the details have been given by the applicant.

In these circumstances, we set aside the issue to the CIT(Exeption.)and direct him to examine the indenture of Trust in order to grant registration u/s 12A of the IT Act, 1961.

8. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on the 31st August, 2015.

Sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Bangalore:

D a t e d : 31-08-2015

am*

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

Sd/-
(ASHA VIJAYARAGHAVAN)
JUDICIAL MEMBER

By order,
AR,ITAT, Bangalore