

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member  
AND  
Shri S.Rifaur Rahman, Accountant Member**

**ITA No.1733/Hyd/2016**  
(Assessment Year: NA )

Telangana Corrugators Development Trust Hyderabad PAN: AACTT 7481 L (Appellant)	Vs	Commissioner of Income Tax (Exemptions) Hyderabad (Respondent)
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For Assessee :	Shri K.A. Sai Prasad
For Revenue :	Dr. K.Srinivas Reddy, DR

Date of Hearing:	21.02.2018
Date of Pronouncement:	28.02.2018

**ORDER**

**Per Smt. P. Madhavi Devi, J.M.**

This is assessee's appeal against the order of the C.I.T (Exemptions) rejecting assessee's application for registration u/s 12AA of the Act, vide orders dated 30.09.2016.

2. Brief facts of the case are that the assessee was earlier known as "Andhra Pradesh Corrugated Box Manufacturing Association". After the bifurcation of the State of Telangana from Andhra Pradesh in 2014, the assessee society was formed and it filed application in Form No.10A and in Form No.10G on 30.03.2016 seeking registration u/s 12AA of the Act and approval u/s 80G of the Act respectively. The assessee was asked to produce its original Trust Deed for verification and on production

of the same, the CIT (E) went into the following objective clauses of the assessee and observed that they are for the mutual benefit of Corrugated Box Manufacturers Association Members.

*“2. I have gone through the information filed by the society. Some of the objective clauses are mentioned as under:*

*(A) To establish or to assist in establishment of any manufacturing facility that is likely to benefit the corrugated Box Manufacturing Association’s members especially the micro and small manufacturing units’ owners and their work force.*

*(B) To invite equipment manufacturers; research and development agencies or similar other agencies connected with manufacturing and logistics of corrugated boxes and allied products or services for arranging demonstrations on a common productions facility belonging to Trust and to collect and disseminate technical, statistical and other useful information and knowledge among the members of the Association and assist the members by such means like, providing library or subscribing to or publication of technical or trade, journals, books, periodicals, phamphlets and such other literatures as may be found necessary.*

*(C) To undertake and/or assist in the research work for the general development and progress of the Corrugated Box Manufacturers and assist in the activities of inventions of new equipment, tools, techniques and designs useful to the Corrugated Box Manufacturers.*

*2.1 The above objective clauses are clearly mutual in nature. The objective clauses of the Trust are for the mutual benefit of Corrugated Box manufacturing persons. The members of the Association are from this trade. There is no advancement of other object of general public utility as required u/s 2(15) of the Act in the case of the applicant. Hence, it cannot be regarded as a public charitable trust”*

Therefore, he came to the conclusion that there is no “advancement of any other objects of general public utility” by the

assessee as required u/s 2(15) of the Act. Therefore, he held that the assessee cannot be considered as a public charitable trust and rejected the application for registration u/s 12AA as well as u/s 80G of the Act. Aggrieved, the assessee is in further appeal before us.

3. The learned Counsel for the assessee, Shri K.A. Sai Prasad, has filed before us the copy of the registration granted to the Andhra Pradesh Corrugated Box Manufacturing Association vide orders dated 18.08.2008. He submitted that the assessee is only formed out of the said organization on bifurcation of the State and since the assessee is also carrying on the very same activity, it should not have been denied registration u/s 12AA of the Act. As regards the activity of the assessee, the learned Counsel for the assessee placed reliance upon the decision of the Coordinate Bench of this Tribunal at Chennai in the case of M/s. Tamil Nadu Small & Medium Industries Mutual Association in ITA No.1950/Mds/2011 and also the decision of the Hon'ble Rajasthan High Court in the case of Jodhpur Chartered Accountants Society reported in 127 taxmann 90 (Raj.)

4. The learned DR, on the other hand, supported the orders of the authorities below.

5. Having regard to the rival contentions and the material on record, we find that the Andhra Pradesh Corrugated Box Manufacturers Association from which the assessee has been carved out, has similar objectives and has already been granted registration u/s 12AA of the Act vide order dated 18.08.2008

which has since been not rescinded. The assessee has been formed on the bifurcation of the State of Telangana and is having the same objectives and therefore, it is also entitled for registration u/s 12AA of the Act on this ground alone. Even otherwise, the objectives of the assessee are for the benefit of a particular trade. Whether restricting the benefit to the members of a particular trade disentitles it from registration u/s 12AA of the Act?. This issue has first been examined in detail by the Constitution Bench of the Hon'ble Supreme Court in the case of Surat Art Silk Cloth Manufacturers Association (Supra). The Hon'ble Supreme Court held that where the dominant and primary object of the assessee is to promote commerce and trade in art silk yarn etc., it is charitable and the other benefits which are incidental in carrying out the main or primary purpose of the assessee, would not make it not charitable. This finding was reiterated by the Apex Court in the case of CIT vs. Andhra Chamber of Commerce (1965) 55 ITR 722) by holding that the Chamber of Commerce did not cease to be charitable merely because the members of the chamber were incidentally benefitted in carrying out its main charitable purpose.

6. The Hon'ble Bombay High Court in the case of DIT (E) vs. Bharat Diamond Bourse, reported in 245 ITR 437 also applied the dominant purpose test to hold it to be a charitable institution and the said decision was upheld by the Hon'ble Supreme Court as reported in 295 ITR 280 (S.C).

7. In the case of Jodhpur Chartered Accounts Society case (Supra), the Hon'ble Rajasthan High Court held that to serve a charitable purpose, it is not necessary that the objects should

be to benefit the whole of mankind or all persons in a country or State, and even if a section of public is given benefit, it cannot be said that it is not a trust for charitable purpose in the interest of the public. For coming to this conclusion, the Hon'ble Rajasthan High Court has followed the decision of the Hon'ble Supreme Court in the case of Ahmedabad Rana Caste Association reported in (1971) 182 ITR 704. ITAT at Chennai also followed the decision of the Hon'ble Supreme Court in the case of Addl. CIT v. Surat Art Silk Cloth Manufacturers Association (121 ITR 01) and the Hon'ble Bombay High Court in the case of DIT (Exemptions) vs. Bharat Diamond Bourse (245 ITR 437) where a trade association established for serving the common interest of a particular trade, was held by the Court that the objects of the association were charitable in nature and entitled for exemption u/s 11 of the Act.

8. We find that following the above decisions, the Coordinate Bench of ITAT at Chennai has already directed the Director of Income Tax (Exemption) to grant registration to the Tamil Nadu Small & Medium Industries Mutual Association (Supra). Even in the case of Ahmedabad Rana Caste Association vs. CIT (cited Supra), the Hon'ble Supreme Court has held that the objects of such an institution are charitable in nature. The relevant para is reproduced hereunder:

*“It is well-settled by now that an object beneficial to a section of the public is an object of general public utility. To serve a charitable purpose it is not necessary that the object should be to benefit the whole of mankind or all persons in a particular country or State. It is sufficient if the intention to benefit a section of the public as distinguished from a special individual is present.*

*In the instant case, what had to be seen was whether the members of the Rana caste who were not natives*

of Ahmedabad but who came to reside there and were accepted as members of that caste according to its usage and custom could be said to have a relationship which was an impersonal one dependent on their condition as members of the Rana community. Such members of the Rana caste could not be regarded as having been introduced into that caste by consideration of their personal status as individuals. As a matter of fact that predominant contention and requirement of the clause defining 'beneficiaries' in the constitution of the assessee was the factum of their belonging to the Rana community of Ahmedabad. The common quality, therefore, uniting the potential beneficiaries into the class consisted of being members of the Rana caste or community of Ahmedabad whether as natives or as being admitted to that caste or community under custom or usage. The mere fact that a person of the Rana community who was not an original native of Ahmedabad had to prove his credentials according to the customs and usage of that community to get admitted into that community could not introduce a personal element. As regards the acceptance of such persons as members of the community or caste, according to custom and usage, it is well-known that whether a question arises whether a person belongs to a particular community or caste, the customs or usage prevailing in that community must play a decisive and vital part. That cannot be regarded as an element which would detract from the impersonal nature of the common quality.

*The appeals were accordingly allowed”.*

Therefore, we direct the CIT (Exemptions) to grant registration u/s 12AA of the Act.

9. In the result, assessee's appeal is allowed.

Order pronounced in the Open Court on 28<sup>th</sup> February, 2018.

**Sd/-**  
**(S.Rifaur Rahman)**  
**Accountant Member**

**Sd/-**  
**(P. Madhavi Devi)**  
**Judicial Member**

Hyderabad, dated 28<sup>th</sup> February 2018.

**Vinodan/sps**

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- 4 The DR, ITAT Hyderabad
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*By Order*