

Mere grant of sec. 12A registration won't be sufficient to allow registration under sec. 80G as well

Summary – The High Court of Karnataka in a recent case of Sri Jain Educational Social Cultural Welfare Charitable Trust., (the Assessee) held that Section 80G and section 12A are exclusive and, therefore, in order to get recognition under section 80G, mere registration under section 12A is not sufficient

Facts

- The assessee filed an application seeking registration under section 12A. The said application was rejected by the Director on the ground that one of the objects of the trust was, establishment of small scale industries and carry on commercial activities and therefore, the assessee was not entitled to the registration.
- The Tribunal, however, taking a view that the objects of the Trust were charitable in nature, granted registration.
- In the meanwhile the assessee had filed an application before the Director seeking recognition under section 80G. As the application filed for registration under section 12A had been rejected, the said application came to be dismissed by the Director.
- The Tribunal, while granting registration under section 12A, also granted recognition under section 80G on the ground that once registration was granted under section 12A as a consequential order, recognition under section 80G was to be granted.
- On revenue's appeal :

Held

- The question of law that arises for consideration is, whether grant of recognition under section 80G, is automatic on the assessee being granted registration under section 12A.
- The law on the point is well settled. Both these provisions are exclusive. In order to get recognition under section 80G, mere registration under section 12A is not sufficient. Further the assessee has to satisfy the requirement mentioned under section 80G. Though grant of registration under section 12A is a condition precedent, unless the conditions stipulated in section 80G are fulfilled, the recognition under section 80G cannot be granted.
- In that view of the matter, that portion of the order is erroneous and requires to be set aside. Accordingly, the impugned order is set aside. The matter is remitted to the Director for consideration of the application for recognition under section 80G, in accordance with law and then to pass appropriate orders.