

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 102/Ind/2023

Shiksha Prasarak Samiti, Niwali Road, Sendhwa (M.P.)	<u>बनाम/</u> Vs.	CIT, (Exemption), Bhopal.
(Appellant / Assessee)		(Respondent / Revenue)
PAN: AAGAS3296M		
Assessee by	Shri Pankaj Shahand Shri Somya Bumb, CA	
Revenue by	Shri P.K. Mishra, CIT DR	
Date of Hearing	23.05.2023	
Date of Pronouncement	21.06.2023	

आदेश/ O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order dated 15.02.2023 passed by learned Commissioner of Income-Tax (Exemption), Bhopal ["Ld. CIT(E)"] by which the assessee's application for grant of registration u/s 80G(5) of Income-tax Act, 1961 ["the act"] has been rejected, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. Heard the learned Representatives of both sides at length and case-records perused.

3. Briefly stated the facts leading to the present appeal are such that the assessee filed an application No. CIT(Exemption), Bhopal/2022-

23/12AA/10722 in Form No.10AD to Ld. CIT(E) seeking registration u/s 80G(5). Ld. CIT(E) decided the same vide order dated 15.02.2023 whereby the assessee's application has been rejected summarily without any decision on merit for the reason that the assessee has not submitted registration-certificate u/s 12A/12AA/12AB which is a pre-requisite for grant of registration u/s 80G(5). Aggrieved, the assessee has filed this appeal.

4. Ld. AR placed on record the copy of latest order dated 24.09.2021, passed by PCIT/CIT by which registration has been granted to assessee from A.Y. 2022-23 to A.Y. 2026-27 under the latest operative provisions of section 12A/12AA/12AB of the act. Ld. AR also filed a copy of earlier order dated 14.08.2015 passed by CIT(E) by which registration was granted to assessee from 01.04.2014 under then operative provisions of section 12AA of the act. Copies of these orders are scanned below for a ready reference:-

FORM NO. 10AC

(See rule 17A/11AA/2C)
Order for registration

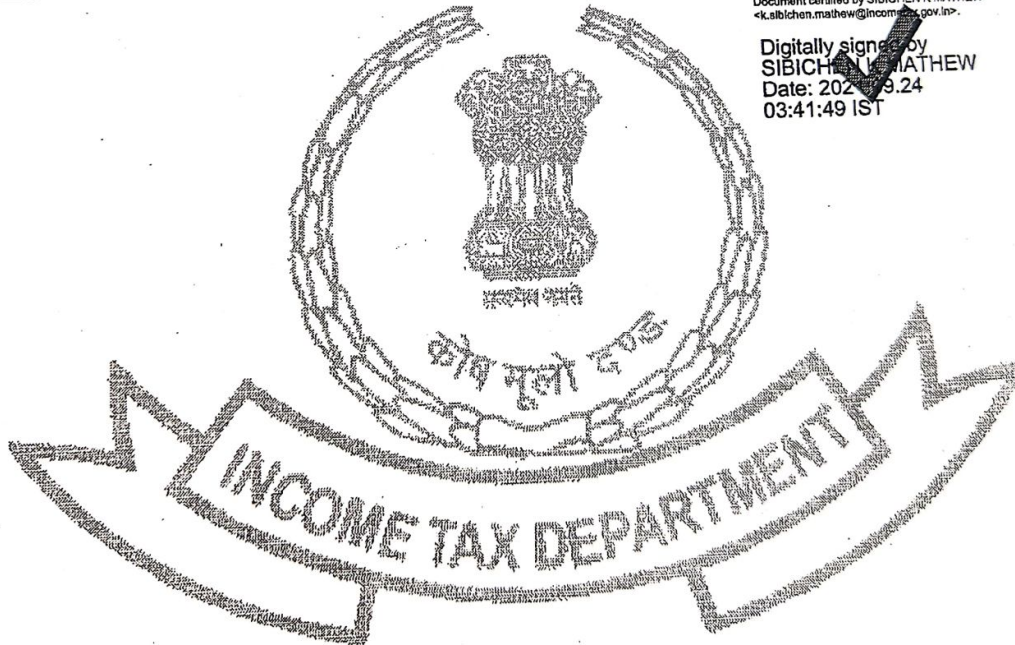
1	PAN	AAGAS3296M
2	Name	SHIKSHA PRASARAK SAMITI
2a	Address	
	Flat/Door/Building	NEHRU BAL VINAY MANDIR
	Name of premises/Building/Village	
	Road/Street/Post Office	NIWALI ROAD SENDHWASENDHWA
	Area/Locality	BARWANI
	Town/City/District	
	State	Madhya Pradesh
	Country	INDIA
	Pin Code/Zip Code	451666
	3	Document Identification Number
4	Application Number	392/23600300821
5	Unique Registration Number	AAGAS3296ME20218
6	Section/sub-section/clause/sub-clause/proviso in which registration is being granted	01-Sub clause (i) of clause (ac) of sub-section (1) of section 12A
7	Date of registration	24-09-2021
8	Assessment year or years for which the trust or institution is registered	From AY 2022-23 to AY 2026-27
9	Order for registration:	
	a. After considering the application of the applicant and the material available on record, the applicant is hereby granted registration with effect from the assessment year mentioned at serial no 8 above subject to the conditions mentioned in row number 10.	
	b. The taxability, or otherwise, of the income of the applicant would be separately considered as per the provisions of the Income Tax Act, 1961.	
	c. This order is liable to be withdrawn by the prescribed authority if it is subsequently found that the activities of the applicant are not genuine or if they are not carried out in accordance with all or any of the conditions subject to which it is granted, if it is found that the applicant has obtained the registration by fraud or misrepresentation of facts or it is found that the assessee has violated any condition prescribed in the Income Tax Act, 1961.	
10	Conditions subject to which registration is being granted	
	The registration is granted subject to the following conditions:-	

<p>a. As and when there is a move to amend or alter the objects/rules and regulations of the applicant, prior approval of the Commissioner of Income Tax shall be sought along with the draft of the amended deed and no such amendment shall be effected until and unless the approval is accorded.</p>
<p>b. In the event of dissolution, surplus and assets shall be given to an organization, which has similar objects and no part of the same will go directly or indirectly to anybody specified in section 13(3) of the Income Tax Act, 1961.</p>
<p>c. In case the trust/institution is converted into any form, merged into any other entity or dissolved in any previous year in terms of provisions of section 115TD, the applicant shall be liable to pay tax and interest in respect of accreted income within specified time as per provisions of section 115TD to 115TF of the Income Tax Act, 1961 unless the application for fresh registration under section 12AB for the said previous year is granted by the Commissioner.</p>
<p>d. The Trust/ Institution should quote the PAN in all its communications with the Department.</p>
<p>e. The registration u/s 12AB of the Income Tax Act, 1961 does not automatically confer any right on the donors to claim deduction u/s 80G.</p>
<p>f. Order u/s 12AB read with section 12A does not confer any right of exemption upon the applicant u/s 11 and 12 of Income Tax Act, 1961. Such exemption from taxation will be available only after the Assessing Officer is satisfied about the genuineness of the activities promised or claimed to be carried on in each Financial Year relevant to the Assessment Year and all the provisions of law acted upon. This will be further subject to provisions of section 2(15) of the Income Tax Act, 1961.</p>
<p>g. No change in terms of Trust Deed/ Memorandum of Association shall be effected without due procedure of law and its intimation shall be given immediately to Office of the Jurisdictional Commissioner of Income Tax. The registering authority reserves the right to consider whether any such alteration in objects would be consistent with the definition of "charitable purpose" under the Act and in conformity with the requirement of continuity of registration.</p>
<p>h. The Trust/ Society/ Non Profit Company shall maintain accounts regularly and shall get these accounts audited in accordance with the provisions of the section 12A(1)(b) of the Income Tax Act, 1961. Seperate accounts in respect of each activity as specified in Trust Deed/ Memorandum of Association shall be maintained. A copy of such account shall be submitted to the Assessing Officer. A public notice of the activities carried on/ to be carried on and the target group(s) (intended beneficiaries) shall be duly displayed at the Registered/ Designated Office of the Organisation.</p>
<p>i. The Trust/ Institution shall furnish a return of income every year within the time limit prescribed under the Income Tax Act, 1961.</p>
<p>j. Seperate accounts in respect of profits and gains of business incidental to attainment of objects shall be maintained in compliance to section 11(4A) of Income Tax Act, 1961.</p>
<p>k. The registered office or the principal place of activity of the applicant should not be transferred outside the jurisdiction of Jurisdictional Commissioner of Income Tax except with the prior approval.</p>
<p>l. No asset shall be transferred without the knowledge of Jurisdictional Commissioner of Income Tax to anyone, including to any Trust/ Society/ Non Profit Company etc.</p>
<p>m. The registration so granted is liable to be cancelled at any point of time if the registering authority is satisfied that activities of the Trust/ Institution/ Non Profit Company are not genuine or are not being carried out in accordance with the objects of the Trust/ Institution/ Non Profit Company.</p>
<p>n. If it is found later on that the registration has been obtained fraudulently by misrepresentation or suppression of any fact, the registration so granted is liable to be cancelled as per the provision u/s section 12AB(4) of the Act.</p>

o. This certificate cannot be used as a basis for claiming non-deduction of tax at source in respect of investments etc. relating to the Trust/ Institution.	
p. All the Public Money so received including for Corpus or any contribution shall be routed through a Bank Account whose number shall be communicated to Office of the Jurisdictional Commissioner of Income Tax.	
q. The applicant shall comply with the provisions of the Income Tax Act, 1961 read with the Income Tax Rules, 1962.	
r. The registration and the Unique registration number has been instantly granted and if, at any point of time, it is noticed that form for registration has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents required to be provided under sub-rule (1) or (2) of rule 17A or by not complying with the requirements of sub- rule (3) or (4) of the said rule, the registration and Unique Registration Number (URN), shall be cancelled and the registration and URN shall be deemed to have never been granted or issued.	
Name and Designation of the Registration Granting Authority	Principal Commissioner of Income Tax/ Commissioner of Income Tax (Digitally signed)

Document certified by SIBICHEN K MATHEW
<k.atbichen.mathew@income.gov.in>

Digitally signed by
SIBICHEN K MATHEW
Date: 2023.09.24
03:41:49 IST





COMMISSIONER OF INCOME TAX (EXEMPTION)
Aayakar Bhawan, Hoshangabad Road
Bhopal-462011

Tel: 0755-2525420

Fax: 0755-2577159

F.No. CIT(E)/BPL/HQ/12A/94/2015-16/

Dated 14/08/2015

Name & Address of the Trust/ Institution/Association	Shiksha Prasarak Samiti, Nivali Road, Sendhwa, Dist.:-Barwani(M.P.)
PAN	AAGAS3296M
Certificate No.	AAGAS3296M /03/15-16/S-0144
Date of filling	27.02.2015
Date of order	14.08.2015

ORDER U/S 12AA(1)(b)(i) OF THE INCOME TAX ACT, 1961

1. The aforesaid Trust/Society/Company/Institution created/established under the Trust Deed/Memorandum of Association dated 25/07/1955 which has been registered with the Charity Commissioner/Registrar of Assurances/Registrar of Societies/Registrar of Companies vide case no. 188 dated 25/07/1955 has filed an application for registration u/s 12AA(1)(b)(i) of Income Tax Act, 1961 in Form No. 10A on 27.02.2015. After considering the material placed on record, I the undersigned, hereby register the Trust/Society/Company/Institution with effect from 01.04.2014.
2. The name of the Trust/Society/Company/Institution has been entered at Registration Number AAGAS3296M/03/15-16/S-0144 as established for religious/charitable purposes, or as a general public utility in the Register of Trusts/Institution maintained in this office.
3. The registration thus granted u/s 12AA(1)(b) of the Act does not automatically exempt the income of the Society/ Institution. The Issue of the taxability of its income shall be examined and decided upon by the Assessing Officer each year based upon the conduct of activities compliance with the statutory and other requirements without prejudice to the fact of granting of this registration. Also, if applicant society is transferred or dissolved, its registration u/s 12AA shall automatically be withdrawn.

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4. The registration thus granted does not also confer any exemption under section 80G of the Act to make any donation to the Institution/Society eligible for deduction under section 80G of the Act. Separate application with accounts has to be filed before the concerned Commissioner of Income-tax (Exemption), Bhopal having jurisdiction over the Assessing Officer(s) to claim exemption U/s 80G of the IT Act.
5. In terms of Section 12AA (3), if the activities of the trust/institution are found to be not genuine or not being carried out in accordance with the objects of the trust/institution, the registration granted vide this order shall be liable for cancellation.
6. The Society/Institution shall furnish the Return of Income every year within the time-limit prescribed under the IT Act, 1961.
7. This certificate cannot be used as a basis for claiming non-deduction of tax at source in respect of investments etc., of the Society/Institution. Separate application(s) in prescribed form(s) are to be filed before the Assessing Officer(s) for this purpose.
8. The Society/Institution shall quote the PAN as AAGAS3296M in all its communications.
9. The Assessing Officer is at liberty to determine the income of the society with reference to section 11, 12 and 13 of the Act, 1961 and also verify the genuineness of the Trust/Institution as per objects.
10. The Society/Institution should not amend or alter the clauses of the society/Deed/Memorandum which involve the transfer of assets, change of objectives and merger of the Trust/Institution partly or fully with other such entities, without prior approval of the Commissioner of Income-tax (Exemption).
11. The Trust/Institution shall operate/open Bank Account only in the name of the exempted entity and not in the name of any of the trustees/members/director.

Selli

(D.K. Chhablani)
Commissioner of Income-tax (Exemption)
Bhopal

Copy to:-

1. The applicant.
2. Guard File, ITO (HQ) (Exemption), Bhopal.
23. The Addl./Jt. CIT (Exemption), Bhopal.
4. The Income-tax Officer (Exemption), Indore.

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(T. Nain)
Income Tax Officer (ITO)
For Commissioner of Income-tax (Exemption)
Bhopal

5. Ld. AR prayed that since the registration of assessee u/s 12A/12AA/12AB was and is in force, the impugned order passed by the

CIT(E) rejecting assessee's application for grant of registration u/s 80G(5) should be set-aside with a direction to reconsider the application of assessee on merit.

6. Ld. DR representing the Revenue fairly agreed to the prayer of assessee.

7. In view of above submissions of parties, we are inclined to set aside the impugned order passed by the CIT(E) and remand this case back to CIT (E) for re-consideration of assessee's application on merit in accordance with law. Ordered accordingly.

8. Resultantly, this appeal of assessee is allowed in terms indicated above.

Order pronounced in the open court on 21/06/2023.

Sd/-
VIJAY PAL RAO
JUDICIAL MEMBER

Sd/-
B.M.BIYANI
ACCOUNTANT MEMBER

Indore

दिनांक /Dated :21.06.2023

CPU/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore*