

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH: JODHPUR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. Nos. 189 to 190/Jodh/2023  
Assessment Year.: 2023-24**

Johari Lal Shivraj Gotam Bohra Charitable Trust F-308/A, Mandia Road, Pali. [PAN: AADTJ6367N] <b>(Appellant)</b>	<b>Vs.</b>	Commissioner of Income Tax, (Exemptions), Jaipur.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>Sh.Goutam Chand Baid, CA.</b>
<b>Respondent by</b>	<b>Sh. Shailendra Sharma, CIT. DR</b>

<b>Date of Hearing</b>	<b>22.11.2023</b>
<b>Date of Pronouncement</b>	<b>06.12.2023</b>

**ORDER**

**Per:Anikesh Banerjee, J.M.:**

Both the instant appeals of the same assessee are directed against the order of the Id. Commissioner of Income Tax (Exemptions), Jaipur, [in brevity the ‘CIT (E)’], order passed u/s 12AB & 80G of the Income Tax Act 1961, [in brevity the Act].

2. The AR mentioned that the appeal is filed with a delay of 148 days. The petition for condonation of delay with affidavit, are filed and the delay is duly explained. The ld. AR mentioned that by technical error in fresh filing of appeal, there remains no other option to revive the earlier appeal. The delay has occurred to file the appeal before the bench. The ld. DR had not made any strong objection against the assessee. Accordingly, the delay for 148 days is condoned.

3. At the outset both the appeals are related to application for registration u/s 12A(1)(ac)(iii) and u/s 80G(5) of the Act of the same assessee.

4. Considering both the parties **ITA No. 189/Jodh/2023** is taken as lead case.

The assessee has taken the following grounds:

*“1. That on the facts and in the circumstances of the case, ld. CIT(E), Jaipur erred in rejection the application filed by appellant u/s 12A(1)(ac)(iii) of the Income Tax Act 1961. Necessary direction may kindly be issued to grant registration u/s 12AB.*

*2. The appellant crave liberty to add, amend, alter, modify, or delete any of the ground of appeal on or before its hearing before your honour. Assessee prays for justice..”*

5. Brief fact of the case is that the assessee was allowed the provisional registration u/s 12A(1)(ac)(vi) for A/y 2022-23 to 2024-25. Further, applications were filed for final registration U/s. 12A(1)(ac)(iii) and 80G of the Act for registration of assessee-trust. But both the applications of the assessee are rejected by the Id. CIT(E) by the ex parte orders. The ground of rejections are non-compliance of hearing notices by the assessee and the application Form 10AB was incomplete and lack of supporting documentation. The Id. AR mentioned that the assessee was ready to submit the documents but due to the technical glitches the documents are unable to submit. Accordingly, the assessee filed grievance letter to system. But remained unsuccessful. Being dissatisfied with the order the appeal is filed before us.

6. The Id. AR filed written submission which is kept in record. The Id. AR vehemently argued and placed that the assessee was ready to file Form 10A in fresh, but the system was showing 'error'. Then non-compliance is due to the technical glitch which the assessee was unable to recover. The copies of letter filed before the DIT (system) for system error in preferring fresh application **APB, pages 3 to 4** and communication to revenue authority for non-accepting the fresh

application, **APB pages 5-8**. The ld. AR prayed to remand back the matter for reconsideration.

7. The ld. DR vehemently argued and relied on the order of the revenue authority.

8. We heard the rival submission and considered the documents available in record. The assessee is registered under provisional registration U/s u/s 12A(1)(ac)(vi). The application of final registration and application of 80G are rejected. The assessee was non-complied during the hearing before the ld. CIT(E). On perusal of the documents, we find that the action taken by assessee for filing fresh application after the order of the ld. CIT(E) which are not so relevant before the bench. But the assessee was not silent about its right and was in legal action.

8.1 In our considered view the reasonable opportunity was denied for the assessee for submission of his evidence. We are, therefore, of the opinion that interest of justice would be sub served if the impugned order is set aside and the matters are remitted back to the file of the ld. CIT(E) for consideration thereof afresh. We are not expressing any views on the merits of the case so as to limit the proceeding before the ld. CIT(E). Further, the assessee should be diligent and

complied the notice of the revenue. Needless to say, the assessee should get a reasonable opportunity of hearing for setting aside proceedings.

9. As both the appeals are same nature and fact. So, **ITA No 189/Jodh/2023** is *mutatis mutandis* applicable to the **ITA No. 190/Jodh/2023** and followed accordingly.

10. In the result, the appeal of the assessee bearing **ITA Nos. 189&190/Jodh/2023** are allowed for statistical purposes.

**Order pronounced on 06.12.2023 at Amritsar, Punjab in accordance with  
Rule 34(4) of the Income tax (Appellate Tribunal) Rules, 1963.**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(ANIKESH BANERJEE)**  
**Judicial Member**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The DR, I.T.A.T.

True Copy  
By Order