

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोराड, लेखा सदस्य के समक्ष**  
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A. No.924/Kol/2023

**Ramkrishna Mandal Institute of Education.....Appellant**  
At Rashpur,  
Amta-I, Rashpur  
B.O. Howrah, West Bengal,  
India - 711401  
[PAN:AABTR9493B]

vs.

**CIT (Exemptions, Kolkata..... Respondent**

**Appearances by:**

Shri P. K. Roy, AR, appeared on behalf of the appellant.

Shri Rakesh Kumar Das, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 20, 2024

Date of pronouncing the order : February 20, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been filed by the assessee against the rejection of his application for final registration u/s 12A(1)(ac)(iii) of the Income Tax Act (hereinafter referred to as the 'Act').

2. The ld. CIT(Exemptions) has rejected the application holding the same to be prima facie not maintainable being premature. The ld. CIT(Exemptions) observed that the assessee earlier was granted provisional registration in Form 10AC which was valid till A.Y 2026-27. He, therefore, held that the application of the assessee being premature was not maintainable and rejected the same. Being aggrieved by the above order of the ld. CIT(Exemptions), the assessee has come in appeal before us.

3. We have heard the rival contentions and gone through the record. The assessee-institution has been granted registration u/s 12AB(1)(a) of the Act for five years vide order dated 28.05.2021 which is valid from A.Y 2022-23 to A.Y 2026-27. As per the provisions of section 12A(1)(ac)(iii) of the Act, the assessee-institution is supposed to apply for final registration after grant of provisional registration u/s 12AB of the Act. The relevant part of the provisions of section 12A(1)(ac) of the Act is reproduced as under:

*“12A(1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:-*

*[(ac) notwithstanding any contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution, -*

*(iii) where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier;*

*...and such trust or institution is registered under section 12AB.”*

4. A perusal of the aforesaid provisions of section 12A(1)(ac)(iii) of the Act would reveal that where the trust or the institution was provisionally registered u/s 12AB of the act, the application for final registration can be made at least six months prior to the expiry of the period of provisional registration or within six months of the commencement of its activity, whichever is earlier, which means that the application for final registration has to be made at the earliest possible event i.e. either within six months of the commencement of the activities or at least six months prior to the expiry of the provisional registration. The aforesaid provision does not mean that there is any bar on the applicant to move an application before the period of six months from the expiry of the provisional registration. What has been

provided is that the application must be made before the expiry of six months from the date of expiry of final registration. There is no bar in moving the application at the earliest possible event, rather, i.e. it is expected from the assessee-trust to do so. In view of this, the impugned order of the Id. CIT(Exemptions) is set aside and the matter is restored to the Id. CIT(Exemptions) to consider the application of the assessee for final registration and grant the same if the same is otherwise so admissible to the assessee.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

***Kolkata, the 20<sup>th</sup> February, 2024.***

Sd/-  
[डॉक्टर मनीष बोरड /Dr. Manish Borad]  
लेखा सदस्य /Accountant Member

Sd/-  
[संजय गर्ग /Sanjay Garg]  
न्यायिक सदस्य /Judicial Member

Dated:20.02.2024.

RS

*Copy of the order forwarded to:*

1. Ramkrishna Mandal Institute of Education
2. CIT (Exemptions, Kolkata)
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches