

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 288 & 289/JPR/2024

Kogta Foundation 206, 2 nd Floor Ganpati Plaza, MI Road, Jaipur.	बनाम Vs.	The CIT(E), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAETK4248E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Miss Ridhi Rajvansi (C.A.)
राजस्व की ओर से / Revenue by : Ms. Alka Gautam (CIT) (Th. V.H)

सुनवाई की तारीख / Date of Hearing : 26/09/2024
उदघोषणा की तारीख / Date of Pronouncement : 27/09/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

These two appeals arise out of order passed by Learned Commissioner of Income Tax (Exemption), Jaipur [for short Id. CIT(E)] both dated 19.02.2024. The appeal filed in ITA No. 288/JPR/2024 is against the rejection order passed for registration u/s. 12AB while the second one in ITA No. 289/JPR/2024 is against the rejection of recognition u/s. 80G of the Income Tax Act, 1961 [for short Act].

2.1 In ITA No. 288/JPR/2024 the assessee has raised following

grounds: -

“1. CIT(E) has wrongly rejected the application for registration for charitable institution u/s 12A. Mentioning wrong reasons such as due to non registration under Rajasthan Public Trust Act, 1959 and genuineness of the activities whereas trust has complied all the procedure. Hence rejection/cancellation order must be quashed.

2. The appellant prays your honor to add amend or alter all or any of the grounds of the appeal on or before the date of hearing.”

2.2 In ITA No. 289/JPR/2024 the assessee has raised following

grounds:-

“1. CIT(E) has wrongly rejected the application for registration of assessee society u/s 80G stating that the applicant is not eligible for approval under clause (ii) of first proviso to sub section (5) of section 80G of the Act, as not already registered under clause (i) or (iii) of first proviso to 80G(5) of the Act. Hence CIT(E) order should be made null and void and CIT(E) may be directed to grant for 80G registration and rejection/cancellation order of 80G must be quashed.

2. The appellant prays your honor to add amend or alter all or any of the grounds of the appeal on or before the date of hearing.”

3. First, we take up the appeals of the assessee in ITA no. 288/JPR/2024, wherein the brief fact of the case is that the assessee filed an online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 was filed on 29.09.2023. It is pertinent to mention here that earlier the applicant has made an application for registration u/s 12AB on 22.11.2022 and the same is being rejected as withdrawal vide order dated 08.05.2023 which the assessee explained that as the assessee was not having registration under Rajasthan Public Trust Act.

Again assessee has made an application for registration u/s 12AB of the Income Tax Act, 1961 was filed on 29.09.2023. A letter / notice dated 19.12.2023 was issued at the e-mail / address provided in the application requiring the assessee to submit certain documents / explanations by 29.12.2023.

In response to the above notice, the assessee had requested to adjourn the case through DAK dated 28.12.2023. The case was adjourned vide notice dated 04.01.2024 wherein date of hearing was fixed on 12.01.2024. But the assessee had again requested to adjourn the case through DAK dated 12.01.2024. The case was fixed on 01.02.2024 vide notice dated 17.01.2024. However, again the assessee had requested to adjourn the case through DAK dated 01.02.2024. The case was again fixed on 09.02.2024 vide notice dated 05.02.2024. This time also on given date, the assessee had not produced any details/documents. Despite of giving various opportunities, the assessee did not submit any submission on the given dates. Therefore, the case was decided on the basis of material filed by the applicant along with its application in Form no. 10AB by observing as under:-

“However, the applicant has failed to comply with the letters, despite being given three opportunities details of which given in para-I. All the

above details were sought in order to determine the actual working of the institution. The applicant didn't furnish the sought details. The applicant has not furnished the details along with bill/ vouchers of expenses debited in income and expenditure accounts for the last three financial years. Further, the assessee was also not submitting Details of note on activity carried out by the applicant & copy of bank accounts. The above details were sought from the applicant to determine the actual purpose/nature of expenditures made and to determine whether the impugned charitable activity had actually been done by the trust or not. Such type of verification is necessary to keep a check and balance on the actual working of the trust. Since, the applicant didn't furnish sought details, in the absence of such documents/details, the justification of impugned activity could not be derived and it is not known whether the applicant is genuinely carrying out charitable activity as per its objects. Hence, the applicant has failed to justify the genuineness of activities and thus falls out of the scope of registration u/s 12AB of the Act.

05. In view of above discussion assessee's claim of registration section 12AB is liable to be rejected and thus being rejected on following grounds-

- Incomplete Form 10AB.
- Rajasthan Public Trust Act, 1959.
- Genuineness of Activities and non-compliance.

06. Further 12AB (1)(b)(li)(B) of the Income Tax Act, 1961 also state that if CIT is not satisfied has to pass order rejecting such application and also cancelling its earlier registration. Thus, it is clarified that applicant's provisional registration under clause (v) of clause (ac) of sub-section (1) of section 12A of the Income Tax Act, 1961 dated 28.05.2021 is also being cancelled. Further assessee has failed to give proper justification for regularization of provisional registration, thus with this order provisional registration is also lapsed and cancelled.”

4. So far as the appeal in ITA No. 289/JPR/2024 we note that the said appeal is against the rejection of recognition of section

80G of the Act and same was also rejected on the following reasons:-

"The applicant filed application on 29.09.2023 in Form No. 10AB seeking approval under clause (ii) of first proviso to sub-section (5) of section 80G. As per provisions of clause (ii) of first proviso to sub-section (5) of section 80G the application under this section is to be filed in cases:-

"(ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period".

From the plain reading of clause (ii) of first proviso to sub-section (5) of section 80G of the I.T. Act, 1961, it is evident that the application under this section is to be filed by the trust or institution which is already approved u/s 80G (5) of the Act.

02. On perusal of the application filed by the applicant, it was noticed that the applicant is not eligible for approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act since it was not already approved under clause (i) or (iii) of first proviso to sub-section (5) of section 80G. To clarify the same, the applicant was issued a letter/notice No. ITBA/EXM/F/EXM43/2023-24/1059381218(1) dated 04.01.2024 to withdraw its application in Form 10AB or to justify its claim for approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act on or before 12.01.2024. However, the applicant didn't comply to the above show cause.

03. From the above records of this department, it is clear that assessee application under 80G(5) clause (iii) was already rejected as withdrawal by this office vide No. ITBA/EXM/F/EXM45/2023-24/1052645077(1) dated 08.05.2023. Thus, there is no ambiguity that assessee does not have valid registration u/s 80G. Thus, assessee is not eligible to apply in clause (ii).

04. The applicant is not eligible for approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act, as not already registered under clause (i) or (iii) of first proviso to 80G(5) of the Act. Therefore, application filed on 29.09.2023 in Form 10AB for grant of approval under clause (ii) of first proviso to sub-section (5) of section 80G is hereby rejected as being in-fructuous."

5. Feeling dissatisfied from the above orders of the Id. CIT(E), the assessee has preferred the present appeals on the ground as stated hereinabove. In support of the various grounds so raised the Id. AR appearing on behalf of the assessee has placed reliance on the written submission which is extracted herein below: -

“The assessee trust is a public charitable trust for providing Relief to Poor implies all actions to assist the Poor who are needy and who deserve to be addressed and medical relief for poor patients by providing beds at hospitals, provide school building for education of children with special needs and work as a catalyst to bring sustainable change in the lives of the children and preservation of environment including tree guards, organizing yoga camp and blood donation camp, distribution of blankets and food to poor and needy people and donation to gaushalas. The assessee Trust has been doing charitable activities for the past many years. Provisional registration u/s 12A was granted to the assessee on 28-05-2021, valid till AY 2024-25 vide unique registration number AAETK4248EF20214 vide PB No.125-127.

The assessee Trust had filed form 10A vide PB No.128-131 for Provisional Registration and the Provisional Registration was granted to the assessee in Form 10AC vide PB No.125-127 on 28-05-2021, valid till AY 2024-25. The applicant filed application on 29.09.2023 in Form No. 10AB seeking approval u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961. The assessee Trust was issued a letter/notice No. ITBA/EXM/F/EXM43/2023-24/1060505055(1) dated 05/02/2024 requesting it to furnish certain documents/explanations by 09/02/2024. The assessee trust submitted a reply with complete documents on 09-02-2024 vide PB No.140-158. The trust has duly applied for registration in Rajasthan Public Trust Act, 1959 in Devsthan Vibhag, Government of Rajasthan vide PB No.43-46. However, Society Registration Certificate, Form 10AB and charitable Activities were not considered and registration under 12A also cancelled the previous provisional registration i.e. valid upto AY 2024-25, hence assessee trust is under appeal before your Honor.

Grounds of Appeal

Ground No. 1

CIT(E) has wrongly rejected the application for registration for charitable institution u/s 12A. Mentioning wrong reasons such as due to non-registration under Rajasthan Public Trust Act 1959 and

genuineness of the activities whereas trust has complied all the procedure. Hence rejection/ cancellation order must be quashed.

Reply of ground no. 1

1. The assessee is a charitable trust duly registered with Sub-Registrar, Jaipur V vide registration endorsement serial number 202001019019110 on 30 December 2020, by declaration where no disposition of property vide PB No.1-28. The trust has also applied on Devsthan Vibhag and under registration process by the State Government of Rajasthan under the Rajasthan Public Trust Act, 1959 vide PB No. 43-46.

The objects of the Trusts are of charitable purposes, general public utility as well as relief to poor needy people specifying as under:

- a. The objects of the Trust extend to the whole of India.
- b. The primary object of the Trust shall be to carry Public Charitable work under Corporate Social Responsibility (CSR activities) as prescribed in Schedule VII of the Companies Act, on behalf of Settlor and other contributories to the Trust. The various areas where the Trust can contribute to the CSR activities as prescribed in Schedule VII of the Companies Act, are as follows:
 - i. Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care, and sanitation including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.
 - ii. Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.
 - iii. Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
 - iv. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.
 - v. Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;

vi. Measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows.

vii. Training to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports.

viii. contribution to the prime minister's national relief fund or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women.

ix. -Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and; Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organization (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

x. rural development projects

xi. Slum area development.

xii. disaster management, including relief, rehabilitation and reconstruction activities

xiii. such all other activity as may be notified as CSR under the Companies Act, from time to time The aforesaid is an indicative list of activities which can be undertaken as a part of the CSR activities. Further the aforesaid list shall be interpreted liberally.

2. Rebuttal of point of 2.2 of CIT Order

The CIT states that *"On verification of the application in Form 10AB filed by the applicant, it was found that the application was not complete, and the documents required to be accompanied with Form 10AB were not furnished such as: -*

- *Note on activities of the applicant (Rule 17A(2)(k)).*

It is also important to mention here that above so-called details along with some other details were called from assessee vide various notices as mentioned above. However, assessee failed to submit the same. Thus, assessee's request for registration u/s 12AB is liable to be rejected on ground of incomplete form."

We want to state that there is no point such as "Note on activities of the applicant (Rule 17A(2)(k))" in Form 10AB.

We have submitted the reply of notices issued on dated 09.02.2024 vide PB No. 140-158 in which we gave the detailed notes on the activities of the assessee trust. We are also enclosing photographs as a proof of genuineness of activities for conducting Charitable Activities like Blood Donation , Blanket, Food and Clothes distribution to Poor and Needy People vide PB No.47-60.

3. Rebuttal of point 3 of CIT Order

The CIT states that "*In the absence of registration under Rajasthan Public Trust Act, 1959, assessee is not eligible for registration u/s 12AB.*"

The trust is duly registered with Sub- Registrar, Jaipur V vide registration endorsement serial number 202001019019110 on 30 December 2020, by declaration where no disposition of property vide PB No.1-28 and also has duly applied for registration in Rajasthan Public Trust Act,1959 at Devsthan Vibhag, Government of Rajasthan, Jaipur which is under process. We are submitting relevant documents such as Devshtan Vibhag Form 6, Form 7 and Newspaper Cutting for registration as charitable trust vide PB No.43-46.

4. Rebuttal of point 4 of CIT Order

The CIT states that "*Hence, the applicant has failed to justify the genuineness of activities and thus falls out of the scope of registration u/s 12AB of the Act.*"

We want to state that we have submitted the reply on dated 09.02.2024 of notices issued vide PB No. 140-158 in which we gave the detailed notes on the activities of the assessee trust. We are also enclosing photographs as a proof of genuineness of activities for conducting Charitable Activities like Relief to Poor and Blood Donation vide PB No.47-60. We are also enclosing Ledger of Expenses Showing Charitable Expenses like Donation to School for classes construction, Gaushala Donation, Fabrication of Tree Guards, Donation for Hospital Beds vide PB No.61-64. Hence Ld. CIT is wrongly stated that applicant has failed to justify the genuineness of activities whereas assessee trust is doing all genuine charitable activities which is true from above stated photographs and ledger of expenses.

5. Rebuttal of Point 6 of CIT Order:

The CIT Exemption has wrongly cancelled the existing 12A provisional registration dated 28.05.2021 whereas the assessee has submitted the proper justification for regularization of the provisional registration. However, there is no provision which gives the power to the CIT(E) to cancel the provisional registration/approval from inception. At the most the registration/approval can be cancelled from the date of order rejecting the permanent registration/approval. Hence the order passed by CIT(E) cancelling the provisional registration and provisional approval from 28.05.2021 is illegal & bad in law.

So, your honor is requested to kindly direct the CIT Exemption to grant the 12A registration as trust is doing genuinely charitable activities.

6. It was decided in similar case by the ITAT "A" BENCH, JAIPUR in case of Acharya Shri Hira Laxmi Guru Jain Gaushala Sansthan, Devliya Kala Via Chapaneri, Ajmer Vs CIT Exemption, Jaipur vide I.T.A. Nos. 697 & 698/JPR/2024 order Pronounced on 14/08/2024 vide PB No. 175-187:

"The bench noted the application of the assessee for registration u/s. 12AB was rejected on the objection of fact that the assessee is not registered under the Rajasthan Public Trust Act, 1959, for the assessee has made an application for registration and as regards the genuineness of activities the observation made by Id. CIT(E) is curable in nature and therefore, considering the arguments of the parties we are of the considered view that so far the issue of registration u/s. 12AB of the Act the assessee require one more opportunity to represent the correct fact and produce the registration certificate under RPT Act. Thus, looking to the interest of justice and considering the prayer of the Id. AR of the assessee submitted that the assessee be given a chance to defend the issues on its merit before the Id. CIT(E) and the observation made are curable in nature we considered the prayer of the assessee to remind the case to the file of Id. CIT(E) for making a decision a fresh and thus we set aside the order dated 22.03.2024 passed for rejecting the registration of the trust u/s. 12AB of the Act with a direction to the assessee to produce all the related to the issue. Based on this observation the appeal of the assessee in ITA no. 697/JP/2024 stands allowed for statistical purpose.

Our case is on the same analogy/ identical to the above case, trust has applied for registration in Rajasthan Public Trust Act, 1959 and under registration process by the State Government of Rajasthan so our matter may also be allowed for statistical purpose and set aside to CIT Exemption.

7. It was decided in similar case by the ITAT "B" BENCH, JAIPUR in case of Paradise Sarv Kalyan Sansthan, 106/31, Agarwal Farm, Mansarovar, Jaipur Vs CIT Exemption, Jaipur vide I.T.A. Nos. 401 & 402/JPR/2024 order Pronounced on 10/07/2024 vide PB No. 188-193:

“Consequently, both these appeals are allowed. While setting aside the impugned orders, the matters are remanded to Learned CIT(E), Jaipur for decision of the respective application afresh, after providing reasonable opportunity to the appellant-applicant, of being heard.”

Our case is on the same analogy/ identical to the above case, trust has applied for registration in Rajasthan Public Trust Act, 1959 and under registration process by the State Government of Rajasthan so our matter may also be allowed for statistical purpose and set aside to CIT Exemption.

8. It was decided in similar case by the ITAT “G” BENCH, MUMBAI in case of Shri Surti Modh Vanik Jagruti Mandal, B-201, Mota Nagar, Sir MV Road, Andheri East, Mumbai Vs ITO(E), Ward-2(3) ITAT, Cumballa Hill, Tel Exchange, Mumbai vide I.T.A. Nos. 1315 & 1316/Mum/2023 order Pronounced on 27/07/2023 vide PB No. 65-72.

“In this case The CIT(E) had rejected the application for registration of Shri Surti Modh Vanik Jagruti Mandal under sections 12A and 80G the Income Tax Act, 1961. The primary reason for the rejection was that the Trust seemed to serve only a specific community – the Surti Modh Vanik Samaj. The CIT(E) cited that the aims and objectives were not ‘genuine’ and for the broader public but catered to a specific community, making it ineligible for the tax exemptions under the cited sections. The ITAT found that the CIT(E) has wrongly rejected the applications. The ITAT pointed out that the Ld. CIT(E) has not applied his mind while passing the impugned orders.”

Hence in our case main objectives is doing charitable and general public welfare activities without any discretion of caste, color, Creed, section or sex in India so, our trust is charitable and as all our objects are genuine and for the broader public which can be clearly seen from Trust Deed Hence eligible for registration Under form 10AB u/s 12A of Income Tax Act 1961.

9. It was decided in similar case by the ITAT “Jaipur” BENCH, in case of Shri Parnami Panchayat 1, Parnami Mandir, Adarsh Nagar, Jaipur Vs ITO(Exemptions), Ward-1, Jaipur vide I.T.A. No. 14/JPR/2023 order Pronounced on 18/08/2023 vide Pb No. 73-92:

“Although the assessee trust, since past many years was registered under Section 12AA of the Act, however, such certificate during the course of reassessment proceedings was not traceable. Accordingly, benefit of Section 11 was denied by the AO, vide order dated

30.09.2017. Against the order of the AO, assessee trust preferred an appeal before the CIT(A). The said appeal was filed within stipulated time period i.e. on 16.11.2017. In the interregnum, the assessee trust again applied for registration u/s 12AA of the Act, which was granted by Id. CIT(E) on 27.10.2018, with effect from AY 2019-20. Before the Id. NFAC, it was submitted that since the assessee trust, before the order

being passed by Ld. CIT(A), in the first appellate proceedings, for caption assessment year, had been granted fresh registration u/s 12AA of the Act, benefit of such exemption should be given even for the caption assessment year.”

Our case is on the same analogy/ identical to the above case, trust has applied for registration in Rajasthan Public Trust Act, 1959 and under registration process by the State Government of Rajasthan so our matter may also be allowed for statistical purpose and set aside to CIT Exemption.

10. It was decided in similar case by the ITAT JAIPUR BENCHES, “B” JAIPUR, in case of Akhil Bhartiya Shree Khandal Vipra Mahasabha, Pushkar, Ajmer.Vs The ITO (Exemption), Ajmer. vide ITA. No. 345/JP/2018 order Pronounced on 07/01/2019 vide Pb No. 93-105:

The appellant trust, which obtained registration during the pendency of the appeal, shall be entitled to exemption under Section 11 and 12 of the Act. The registration under Section 12AA by itself does not offer immunity from taxation. The CIT (A) was not justified in taking a similar stand as the AO without considering the amendment to Section 12A of the Act.

This case involves an appeal filed by the appellant, Akhil Bhartiya Shree Khandal Vipra Mahasabha, against the order of the Id. CIT(A), Ajmer. The appellant trust is registered under the Rajasthan Societies Act on 27.10.1952. The trust applied for registration under Section 12AA on 19.01.2016 and was granted registration by the Ld CIT(E) on 08.07.2016. The Id. CIT(A) confirmed the additions made by the Assessing officer.

The provisions of Section 12A state that if registration has been granted to a trust or institution under Section 12AA, the provisions of Sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year. Therefore, the provisions of Section 11 and 12 shall apply for assessment year 2016-17.

Our case is on the same analogy/ identical to the above case, trust has applied for re-registration so benefit of 12A should be granted for the relevant and earlier Assessment year under Sec 12A.

11. It was decided in similar case by the ITAT JODHPUR BENCH : : JODHPUR, in case of Bhamashah Sundarlal Daga Charitable Trust,

Bagree Mohallan, Bikaner – 334001..Vs The Commissioner of Income Tax-Exemption, Jaipur. vide ITA No.278/JODH/2023 order Pronounced on 10/11/2023 vide Pb No. 106-120:

"Therefore, in these facts and circumstances we hold that the Assessee had made the application in form 10AB within the prescribed time limit and hence it is valid application. Therefore, we direct the Id.CIT(E) to treat the application as filed within statutory time and verify assessee's eligibility as per the Act. The Id.CIT(E) shall grant opportunity to the assessee. Assessee shall be at liberty to file all the necessary documents before the Id.CIT(E).

Accordingly, the appeal of the assessee is allowed for statistical purpose. Since we have set aside to Ld.CIT(E), we do not intend to adjudicate each ground separately."

Our case is similar and also covered under ITAT cases Since we have filed application within time period and so cannot be rejected AND complied all the conditions required for registration under 12A, So Assessee is eligible for registration Under form 10AB u/s 12A of Income Tax Act 1961.

12. In similar case, it was decided by the Hon'ble ITAT AMRITSAR BENCH, AMRITSAR., in case of Dharam Chandan Charitable Trust 313/1, Dr. Sham Singh. Vs. CIT (Exemption) Chandigarh The Commissioner of Income Tax-Exemption, Jaipur. vide ITA No.653/Asr/2019 order Pronounced on 26/04/2023 vide PB No.121-124:

"For registration u/s 12AA it is clearly stipulating that the Id. CIT(E) shall satisfy himself about the objects and the genuineness of its activities. The assessee made the payments in relation to charitable activities of trust. The Id. DR had not made any strong objection related to submission of the assessee and the evidence which are filed before the bench. We set aside the order of the Id. CIT(E) and direct to allow the registration of the assessee."

In our case the assessee trust has done all the activities of the trust within the objective of the Act. The documents submitted along with the application demonstrate that the trust is doing for providing Relief to the Poor implies all actions to assist the Poor who are needy and who deserve to be addressed and developing other learning skills in local schools and communities, provide inclusive education to children with special needs and work as a catalyst to bring sustainable change in the lives of the children by constructing the classes in various schools, blood donation camp and preservation of environment including tree guards, protection of animals by way of gaushalas.

Hence your Honor is requested to direct the CIT Exemption to grant the approval u/s 12A and justice should be imparted in the favor of assessee."

5.1 In support of the contention so raised the Id. AR of the assessee relied upon the following evidences: -

S No.	Paper Book Particulars	Page No.
1.	Trust Deed dated 30.12.2020for charitable objects.	1-28
2.	ITR, Computation, Balance Sheet, Income & Expenditure A/c and Receipts and Payments A/cfor F.Y. 2020-21 having Charitable Activity	29-32
3.	ITR, Computation, Balance Sheet, Income & Expenditure A/c,for F.Y. 2021-22 having Charitable Activity	33-37
4.	ITR, Computation, Balance Sheet, Income & Expenditure A/c, for F.Y. 2022-23 having Charitable Activity	38-42
5.	Devshthan Vibhag Form 6, Form 7 and Newspaper Cutting for registration as charitable trust	43-46
6.	Proof of genuineness of activities as photographs of for conducting Charitable Activities Like Relife to Poor and Blood Donation	47-60
7.	Ledger of Expenses Showing Charitable Expenses like Donation to School, Gaushala Donation, Fabrication of Tree Guards, Donation For Hospital Beds	61-64
8.	Decision of Hon'ble ITAT "G" BENCH, MUMBAI in case of Shri Surti Modh Vanik Jagruti Mandal, B-201, Mota Nagar, Sir MV Road, Andheri East, Mumbai Vs ITO(E), Ward-2(3) ITAT, Cumballa Hill, Tel Exchange, Mumbai vide I.T.A. Nos. 1315 & 1316/Mum/2023 order Pronounced on 27/07/2023	65-72
9.	Decision of Hon'ble ITAT "Jaipur" BENCH, in case of Shri Parnami Panchayat 1, Parnami Mandir, Adarsh Nagar, Jaipur Vs ITO(Exemptions), Ward-1, Jaipur vide I.T.A. No. 14/JPR/2023 order Pronounced on 18/08/2023	73-92
10.	Decision of Hon'ble ITAT JAIPUR BENCHES, "B" JAIPUR, in case of Akhil Bhartiya Shree Khandal Vipra Mahasabha, Pushkar, AjmerVs TheITO (Exemption), Ajmer. vide ITA. No. 345/JP/2018 order Pronounced on 07/01/2019	93-105
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	Tax-Exemption, Jaipur. vide ITANo.278/JODH/2023 order Pronounced on 10/11/2023	
12.	Decision of Hon'ble ITAT AMRITSAR BENCH, AMRITSAR., in case of Dharam Chandan Charitable Trust 313/1, Dr. Sham Singh. Vs. CIT (Exemption) Chandigarh The Commissioner of Income Tax-Exemption, Jaipur. vide ITA No.653/Asr/2019 order Pronounced on 26/04/2023	121-124

FOR APPEAL NO: ITA 288/JPR/2024

13.	Form 10AC under Sub clause (i) of clause (ac) of sub-section (1) of section 12A vide Provisional Registration Number AAETK4248EE20214	125-127
14.	Form 10A under sub clause (i) of clause (ac) of sub-section (1) of section 12A vide acknowledgement no. 341602181150421	128-131
15.	Form 10AB under sub clause (iii) of clause (ac) of sub-section (1) of section 12A vide acknowledgement no.527262730280624	132-139
16.	Reply dated 08.02.2024 to CIT Exemption Show Cause Notice dated 05.02.2024	140-158

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17.	Form 10AC under Clause (iv) of first proviso to sub-section (5) of section 80G vide Provisional Approval NumberAAETK4248EF20214	159-160
18.	Form 10A under Sub-clause (A) of clause (iv) of first proviso to sub-section (5) of section 80G vide acknowledgement no. 342076601160421	161-164
19.	Form 10AB under Clause (iii) of first proviso to sub-section (5) of section 80G vide acknowledgement no.527649430280624	165-172
20.	Reply dated 12.01.2024 to CIT Exemption Show Cause Notice dated 04.01.2024	173-174

6. The Id. AR of the assessee in furtherance to the written submission submitted that the assessee has already applied in January 2024 and are expecting the registration under the RPT

Act. As regards the incomplete form and activities the assessee submitted that they have submitted all the details and they were under the impression that without RPT they will not be granted the assessee which the assessee has already applied and is pending expected to be received. The assessee about the genuineness of the activities filed various details on 09.02.2024 which has not been discussed or considered. Based on that the Id. AR of the assessee prayed to grant one more change to present the issue before the Id. CIT(E).

7. Per contra, the Id. DR relied on the orders of the Id. CIT(E) wherein the registration was denied on account of the reasons stated in the order. The assessee earlier withdrawn the application and this second application the assessee has not filed the required information and therefore, Id. DR relied upon the order of the Id. CIT(E).

8. We have heard the counsel for both the parties and perused the material placed on record, judgment cited before us and the orders passed by the revenue authorities. The bench noted that the applicant - assessee withdrawn the application made for the first time and thereafter the assessee vide application dated 29.09.2023 again made a request for registration u/s 12AB of the

Act. Here also the assessee under the impression that since RPT Act certificate would be the pre-condition for issuance of registration u/s 12AB of the Act submitted the details in part.

The Id. AR of the assessee also submitted that a detailed explanation / information containing as much as 19 records were placed vide letter dated 09.02.2024 were filed in a online mode but the same were neither discussed nor considered in the order passed by the Id. CIT(E). Therefore, principles of natural justice are violated so far as to rejection of ground No. 1 and 3 is concerned. So far as ground No. 2 being non availability of the registration under Rajasthan Public Trust Act, the assessee demonstrated vide page No. 43 to 46 of the paper book saying that they have applied but the final registration is pending before the competent authority and application was made in January, 2024. Looking to the overall aspect of the matter and prayer of the assessee, we deem it a fit to remand the matter of registration u/s. 12AB of the Act, to the file of the Id. CIT(E), who will decide the registration aspect of the matter in accordance with law and providing due opportunity of being heard to the assessee. With observations, the appeal in ITA No. 288/JPR/2024 is allowed for statistical purposes.

9. In respect of the ITA no. 289/JP/2024 relating to the application of the assessee for recognition of the trust as per provisions of section 80G of the Act. This application was rejected because the assessee earlier the assessee has withdrawn the application so made and has not challenged the finding. Subsequent application filed by the assessee was not within the period of six months as provided in the law, the application was rejected. Since for the issue of filling the application within six-month CBDT has extended those six-month time line up to 30.06.2024 and since the matter of 12AB registration is set aside we considered it deem to set aside this issue of recognition for 80G of the Act also to the file of the Id. CIT(E).

Based on these observations the appeal of the assessee in ITA no. 288/JPR/2024 and ITA no. 289/JPR/2024 are allowed for statistical purposes.

Order pronounced in the open Court on 27/09/2024.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 27/09/2024

***Santosh**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Vishwakarma Mandir Pushkar, Ajmer.
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 288 & 289/JPR/2024 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar