

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW 'B' BENCH, LUCKNOW**

**BEFORE SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND  
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.278/Lkw/2023  
A.Y. 2023-24

Chartered Accountants Sports Association, B-2/878, Vinay Khand Gomtinagar, Lucknow-226010, U.P.	vs.	Commissioner of Income Tax (Exemptions), Lucknow
<b>PAN:AAEAC2488B</b>		
(Appellant)		(Respondent)

Assessee by:	Sh. Aakash Agrawal, C.A.
Revenue by:	Sh. S.H. Usmani, CIT DR
Date of hearing:	7.08.2024
Date of pronouncement:	30.09.2024

**ORDER**

**PER NIKHIL CHOUDHARY, ACCOUNTANT MEMBER:**

This is an appeal filed against the order of Id. CIT(Exemptions), under section 12AB(1) (b) (ii) of the Income Tax Act, 1961 rejecting the application of the assessee dated 26.09.2022 for registration under section 12A(1)(ac)(v) of the Income Tax Act, 1961. The grounds of appeal preferred are as under:-

*"1. That the Ld. CIT(Exemptions) has erred in law and on facts by rejecting the application filed in Form 10AB under sub clause (v) of clause (ac) of sub-section 1 of Section 12A due to modification in objects to the assessee society by holding that Form 10AC is valid for five years from AY 2022-23 to AY 2026-27 without appreciating the fact that the assessee had filed application within 30 days from the date of adoption/modification of the objects of the Society.*

*2. That the Ld. CIT(Exemptions) has erred in law by inadvertently invoking sub clause (iii) of clause (ac) of sub-section 1 of Section 12A inspite of the*

*fact that its mentioned in para 1 of order that said application is filed under sub clause (v) of clause (ac) of sub-section 1 of Section 12A. Therefore, rejection of registration u/s 12A(1)(ac)(v) of the Income Tax Act, 1961 is not correct and the registration should be granted.*

*3. That the assessee craves leave to add / alter any of the grounds of appeal on or before the date of hearing.”*

2. The facts of the case are that the assessee (Chartered Accountants Sports Association) is a society which was registered under section 12AA of the Income Tax Act, 1961, vide Registration Certificate No. CIT(E), LUCKNOW / 12AA /2019-20/A/10539. Following the amendment in the Act w.e.f. 1.04.2021, in compliance to section 12AB of the Income Tax Act, 1961, the assessee filed an application in Form 10A and obtained registration in Form 10AC under section 12A(1)(ac)(i) of the Income Tax Act on 28.05.2021 for a period of five years i.e. from A.Y. 2022-23 to 2026-27. During F.Y. 2022-23, the assessee entity modified its objects and therefore, in pursuance to section 12A(1)(ac)(v) of the Income Tax Act, 1961, it filed an application in Form 10AB within a period of 30 days from the date of said notification, as the newly added object was in addition to the conditions of registration granted earlier. This application was filed on 26.09.2022. In response to this application, a query letter under section 12A(1)(ac)(v) of the Income Tax Act, 1961 was issued by the Id. CIT(Exemptions) on 26.12.2022. The response was filed to the same on 9.01.2003 furnishing all the required documents and information sought. However, on 28.02.2023, the Id. CIT(Exemptions) rejected the application on the ground that Form 10AC was valid for five years from A.Y. 2022-23 to 2026-27 and therefore, the assessee's application in Form 10AB, under section 12A(1)(ac)(v) was infructuous, non-maintainable and non-est and therefore, for statistical purposes, the application filed by the assessee was treated, "rejected" , though no adverse inference was drawn against the assessee and the registration granted under section 12A(1)(ac)(i) dated 28.05.2021 would remain valid. The assessee

filed an application under section 154 on 23.03.2023 for correcting this order on account of the fact that its' case was not a case under section 12A(1)(ac)(iii) but a case under section 12A(1)(ac)(v) and therefore, the rejection order passed by the Id. CIT(Exemptions) was passed under mistaken appreciation of facts. However, it is submitted before us that no order has been received in response to the said application under section 154. In view of the fact that the application was not disposed, the assessee filed an appeal against the said order before the ITAT on 6.09.2023. Accordingly, a condonation petition was filed seeking the condonation of the delay of 131 days in filing of the appeal before the ITAT on the aforesaid facts. After considering the aforesaid facts, the delay is condoned.

3. Shri. Akash Agarwal, C.A., appearing on behalf of the assessee took us through the facts of the case and pointed out that the rejection of the application had taken place on a mis-appreciation of the fact that the assessee was not filing an application for conversion of provisional registration into permanent registration but rather had filed an application in Form 10AB because of addition of two new clauses in the objects of the society which were as under:-

*"g. To either directly provide relief and assistance in the shape of medical, emotional, financial, psychological, social, etc to needy, poor, handicapped, orphans, old aged, mentally retarded and under privileged section of the society or indirectly by giving donations to the institutions, establishments, persons engaged in such kind of activities.*

*h. To accept donations grants, presents and offerings, in cash or in kind from persons, association of persons, firms, companies, institutions, universities in India & abroad and to deal with the same for the purpose of achieving the objects of the society mentioned above upon such terms and conditions as members may think fit and consistent with the objects of the society."*

4. It was submitted that since these two objects were in addition to the conditions of registration granted earlier for a period of five years from the

assessment years 2022-23 to 2026-27, the filing of a fresh application in Form 10AB within 30 days of the modification became mandatory. However, without appreciating this, the Id. CIT(Exemptions) had treated this as an application for registration under section 12A(1)(ac)(iii) of the Act and therefore, treated as infructuous in view of the registration already having been granted earlier. It was submitted that the rejection of the application for registration under section 12A(1)(ac)(v) of the Act was done on erroneous presumptions and therefore could not be sustained. Accordingly, it was pleaded that the registration under section 12A(1)(ac)(v) of the Income Tax Act, 1961 may kindly be granted by the Tribunal.

5. On the other hand, the Id. CIT DR, Shri. S.H. Usmani, pointed out that no prejudice had been caused to the assessee as the registration had been allowed to continue for its original term of five years i.e. from A.Y. 2022-23 to 2026-27. However the matter could be sent back to the Ld CIT(Exemption) for a fresh order in view of the additions to the objects of the trust.

6. We have duly considered the facts of the case. We find that there is a clear mis-appreciation of the facts by the Id. CIT(Exemptions) and the application has been rejected as infructuous only on account of the fact that it has been treated as an application for granting of registration of a case that was provisionally registered earlier, while in fact it was an application intimating the change in objects and requesting for fresh registration on this account. What the Id. CIT(Exemptions) was required to do was to examine these two new objects to see whether that they conformed to the overall objects of the trust for which registration had been granted earlier and, if she was so satisfied, to confirm the registration of the trust after consideration of these two additional objects, so that the assessee could enjoy the benefits of application of income on these two additional objects in computing its expenditure under section 11 of the Act. We, therefore, restore this matter back to

the file of the Id. CIT(Exemptions) for fresh consideration of the application and grant / continuance of registration for exemptions after consideration of these two new objects communicated to her in Form 10AB on 26.09.2022.

7. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced on 30.09.2024 at Lucknow, U.P.

*Sd/-*

**[SUDHANSHU SRIVASTAVA]**  
**JUDICIAL MEMBER**

DATED: 30/09/2024

Sh

*Sd/-*

**[NIKHIL CHOUDHARY]**  
**ACCOUNTANT MEMBER**

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT DR, ITAT,
4. CIT,
5. The CIT(A)

By order  
Sr. P.S.