

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'H' NEW DELHI**

**BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA Nos. 5044 & 5045/Del/2024  
(Assessment Year : -NA-)

<b>The Sustainability Foundation</b> B-GF-002, Antriksh Greens Sector – 50, Noida – 201 301  <b>PAN : AAETT 2520 N</b> (Appellant)	Vs.	<b>CIT(E)</b> Civic Centre Minto Road, New Delhi – 110 002  (Respondent)
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Assessee by	Shri Abhishek Goyal, C.A.
Respondent by	Shri Dharmveer Singh, CIT-D.R.

Date of Hearing	20.02.2025
Date of Pronouncement	20.02.2025

**ORDER**

**PER VIMAL KUMAR, JM:**

1. Both assessee's appeals are against separate orders dated 18.07.2024 of the Learned Commissioner of Income Tax (Exemption) - Delhi [hereinafter referred to as 'Ld. CIT(E)'] rejecting applications in Forms No. 10AB and 10AD for grant of Registration under Section 12AB(1)(b)(ii)(B) and clause (ii)(b)(B) of second proviso to Section 80G(5) of the Income Tax Act, 1961[hereinafter referred to as 'the Act'].

2. Brief facts of the case are that the appellant/applicant filed separate applications in Forms 10AB and 10AD seeking registration of trust under Section 12AB(1)(b)(ii) of the Act and for approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act on 13.01.2024. A questionnaire dated 17.01.2024 was issued to appellant and case was fixed for compliance on 01.02.2024. In response to the above notice, assessee filed part reply on 02.02.2024 but due to technical glitches some part could not be opened. An another opportunity vide letter dated 07.05.2024 was also given to the assessee for complete reply and case was fixed for compliance on 15.05.2024 but in response to second notice, no reply was given by the assessee. Thereafter, final opportunity vide letter dated 05.07.2024 was given to assessee for complete details. In reply, the assessee vide letter dated 10.07.2024 again submitted part reply only. On perusal of reply, it was found that the assessee had failed to submit the complete details as required. Learned CIT(E) rejected the applications for registration of trust under section 12A of the Act and for approval under section 80G(5)(iii) of the Act as applicant failed to file documentary evidence to specify genuineness and commencement of its charitable activities.

3. Being aggrieved, appellant/assessee preferred present appeals with the following grounds:

➤ **ITA Nos. 5044/Del/2024 :**

1. *“That the Learned Commissioner of Income Tax (Exemption) erred in law and in the facts & circumstances of the case in rejecting the*

*application of the Assessee u/s 10AB of the Income tax Act without carrying out any enquiries u/s 133(6) of the Income tax Act.*

- 2. That the Learned Commissioner of Income Tax (Exemption) erred in law and in the facts & circumstances of the case in rejecting the application of the Assessee u/s 10AB of the Income tax Act without reviewing the documents and information submitted by the Assessee.*
- 3. That the Learned Commissioner of Income Tax (Exemption) erred in law and in the facts & circumstances of the case in not 3 appreciating the fact that the Assessee is a very small organisation with limited resources and thus, should be given opportunity for personal hearing before deciding the case.”*

➤ **ITA No. 5045/Del/2024 :**

- 1. “That the Learned Commissioner of Income Tax (Exemption) erred in law and in the facts & circumstances of the case in rejecting the application of the Assessee u/s 10AD of the Income tax Act without carrying out any enquiries u/s 133(6) of the Income tax Act.*
- 2. That the Learned Commissioner of Income Tax (Exemption) erred in law and in the facts & circumstances of the case in rejecting the application of the Assessee u/s 10AD of the Income tax Act without reviewing the documents and information submitted by the Assessee.*
- 3. That the Learned Commissioner of Income Tax (Exemption) erred in law and in the facts & circumstances of the case in not appreciating the fact that the Assessee is a very small organisation with limited resources and thus, should be given opportunity for personal hearing before deciding the case.”*
4. Learned Authorized Representative for appellant/assessee submitted that the appellant had provided note on activities

conducted by the foundation. The appellant is in its initial years of operation and operating with one staff. The appellant is able to secure miniscule donations in order to pay to its one staff. The details of donation received since inception are :

<b>Assessment Year</b>	<b>:</b>	<b>Donation Recovered</b>
2021-22	:	Nil
2022-23	:	Rs.5,05,000/-
2023-24	:	Rs.3,68,300/-

5. Learned CIT(E) had passed order in violation of principles of natural justice.

6. Learned Departmental Representative for the Department of Revenue submitted that despite several opportunities applicant failed to submit evidence regarding charitable activities of trust.

7. From examination of records in light of aforesaid contention, it is crystal clear that learned CIT(E) vide separate orders rejected applications under section 12A of the Act and under section 80G(5)(iii) of the Act for non-filing of evidence regarding charitable activities of the trust.

8. Hon'ble Supreme Court of India in the case of *Ananda Social & Educational Trust vs. Commissioner of Income Tax* reported in 426 ITR 340 (SC) has held as under :-

*“12. Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, we are of the view that the term ‘activities’ in the provision includes ‘proposed*

*activities'. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust."*

9. In view of above material facts and well settled principle of law in the interest of justice, the matter deserves to be restored to the file of Ld. CIT(E). Accordingly, we set aside the orders impugned and restore the matters to the files of the Learned CIT(E) for fresh adjudication in accordance with law after affording fair opportunity of hearing to both parties.

10. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

**Order was pronounced in the open court on 20.02.2025 and  
reduced to writing and signed on 21.02.2025**

**Sd/-**

**(RAMIT KOCHAR)  
ACCOUNTANT MEMBER**

Dated: 21.02.2025

*Priti Yadav, Sr. PS\**

**Sd/-**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI