

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGARAO, JUDICIAL MEMBER AND**  
**SHRIK.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.614/Nag./2024**  
(Assessment Year : N.A.)

Bhartiya Seva Sadan  
C/o RDG College for Women  
N.H. no.6, Murtizapur Road  
Akola 444 001 PAN – AABTB2570P

..... Appellant

v/s

Commissioner of Income Tax  
Exemption, Pune

..... Respondent

Assessee by : None  
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 03/02/2025

Date of Order – 25/02/2025

**ORDER**

**PER V. DURGA RAO, J.M.**

Caption appeal by the assessee is emanating from impugned order dated 14/09/2024, passed by the learned Commissioner of Income Tax (Exemption), Pune, [*learned CIT(E)*].

2. The assessee has raised following grounds:-

*"Bharatiya Seva Sadan, established under the Bombay Public Trust Act, 1950, and also registered under the Societies Registration Act, 1860, is a reputed institution committed to imparting secular education. Founded by the renowned social worker and freedom fighter, Smt. Radhadevi Goenka, the trust has grown from its humble beginnings in 1942 as a primary school to a sprawling educational network encompassing schools, colleges, and professional courses. With a vision to empower women through economic independence and education, the trust has been instrumental in fostering*

*social upliftment in Vidarbha, offering comprehensive academic and career-oriented programs.*

*The trust is dedicated to advancing public welfare and societal development, with a particular focus on supporting minority communities. Its objectives are achieved through initiatives in healthcare, education, and social welfare. A core aspect of its mission is the management of schools that provide quality education to all, with a special emphasis on underserved groups, while promoting values of inclusivity and character development. The trust also facilitates vocational training, scholarships, and community empowerment programs, contributing to holistic and sustainable societal progress.*

*As outlined in the Tax Audit Report (Form 10B), the trust primarily applies its funds in the field of education. The trust is officially affiliated with Sant Gadge Baba Amravati University.*

*The trust applied for provisional registration under Section 12A(1)(ac) (vi) on 22th March 2022, and after considering the application of the applicant and the material available on record, the applicant was granted provisional registration on 29th March 2022.*

*The trust applied for final registration under Section 12A(1)(ac)(iii), but faced communication challenges in responding to notices. This led to the cancellation of provisional registration. The cancellation order also stated that the trust is not adhering to objectives i.e. running school, according to circumstantial evidence such as affiliation with Sant Gadge Baba Amravati University, Tax Audit report, expenditure on charitable activities, book of accounts it is evident that the trust was adhering the charitable objectives and cancellation was procedural and did not evaluate the trust's eligibility or charitable nature.*

*After cancellation of provisional and final registration the trust tried to reapply for final registration but the Income Tax Websites limitations prevented reapplication, compounding the trust's hardship. The trust was unable to comply fully with procedural requirements due to persistent technical errors on the Income Tax portal.*

*Trust applied for direct registration proceedings u/s 12A(1)(ac) (vi)(B). Received first notice dated 21/05/2024 which was duly responded on 30/05/2024. Second Show Cause Notice was issued dated 29/08/2024, which was duly responded on 03/09/2024.*

*Direct registration was rejected on the basis that the trust's claim for deduction under Section 11 of the Income Tax Act. Section 11 allows tax exemption on income used for charitable purposes but requires registration under Section 12A.*

*We vehemently stress that, the trust operates exclusively for charitable purposes, aligning with Section 2(15) of the Income Tax Act and objects of trust which includes providing and facilitating education. Portal errors and procedural challenges should not override substantive justice. These arguments emphasize that procedural lapses cannot negate the trust's substantive right to registration.*

*As per the judgement given by The Income Tax Appellate Tribunal "C" Bench, Mumbai, in the case of "Chamber of Indian Charitable Trusts Vs. PCIT Mumbai dated 28/09/2022, I.T.A. Nos. 2168 & 2169/Mum/2021, A.Y:2022-23 it was held that procedural lapses should not impede a trust's right to registration, if it operates exclusively for charitable purposes.*

*We appeal to the Tribunal's discretion and seeks a sympathetic interpretation of the case."*

3. In this case, the assessee filed application in Form no.10AB under section 12A(1)(ac)(vi)-Item(B) on 28/03/2024, but the learned CIT(E) rejected the application of the assessee holding as under:-

*"4. On verification of the details submitted by the assessee in response to the said notice and the documents submitted along with the application, various discrepancies were noticed. Another notice was then issued to the assessee on 29/08/2024 and the discrepancies were duly communicated to it as reproduced below:*

*"(i) As per financial statements and ITRs furnished by you, it is seen that the trust has claimed deduction u/s 11. Therefore, said provisions of sec. 12A(1)(ac) (vi) (B) of the Act are not applicable to your case. As such, your present application is liable to be rejected. Please clarify with supporting documents.*

*(ii) Kindly furnish evidences claiming expenses on charitable activities such as bills/vouchers/invoices alongwith photographs of charitable activities carried out by your trust."*

*5. The assessee was requested to show cause as to why the application should not be rejected and why the approval granted under section 12AB of the Income Tax Act, 1961 should not be cancelled. The assessee was also given opportunity of being heard vide the said notice. The assessee was specifically informed that in the event of failure to comply by the due date, the application shall be liable to be rejected and the approval shall also be liable to be cancelled. The compliance to the said notice was due on 05/09/2024. The notice was duly served on the assessee through e-portal and email.*

*6. The assessee's contention is not acceptable based on the earlier submissions and further, without prejudice to the above and as per financial statements and ITRs furnished by the assessee, it is seen that the trust has claimed deduction u/s 11. Therefore, said provisions of sec. 12A(1)(ac)(vi) (B) of the Act are not applicable in the assessee's case. Thus, said provisions of sec. 12A(1)(ac) (vi) (B) of the Act are not applicable in the assessee's case. As such, the undersigned is left with no alternative but to reject the application.  
ME PARTMEN*

*7. In view of the above, the application filed by the assessee under section 12A(1)(ac) (vi)-ITEM(B) of the Income Tax Act, 1961 is hereby rejected."*

4. None appeared on behalf of the assessee appellant.
5. Before us, the learned Departmental Representative supported the order of the learned CIT(E).
6. While going through the material available before us, we find that the assessee has not filed proper details before the learned CIT(E). Under these circumstances, we are of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the learned CIT(E). In view of the above, the order passed by the learned CIT(E) is set aside and remit the matter to the file of the learned CIT(E) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to adhere to the statutory notices to be issued by the learned CIT(E) and furnish all relevant and necessary documents and assist the learned CIT(E) in disposing of the appeal in time failing which the learned CIT(E) is at his discretion to take appropriate step as deem fit and appropriate in the facts and circumstances of the case. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.
7. In the result, assessee's appeal stands allowed, but for statistical purpose only.

Order pronounced in the open Court on 25/02/2025

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**NAGPUR, DATED: 25/02/2025**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury  
Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur