

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 373 & 413/MUM/2025
(Assessment Year: 2024-2025)**

Della Foundation

781 Della Towers Parsi Colony,
M Joshi Marg, Maharashtra 400014
[PAN:AAETD0260F]

..... **Appellant**

**Commissioner of Income Tax
(Exemptions), Mumbai**

Room No. 601, 6th Floor, Cumballa Hill
MTNL, TE Building, Pedder Road, Dr
gopalrao Deshmukh Marg, Cumballa Hill,
Mumbai 400026

Vs

..... **Respondent**

Appearance

For the Appellant/Department

: Shri Pawan Choudhary

For the Respondent/Assessee

: Smt. Sanyogita Nagpal (CIT DR)

Date

Conclusion of hearing

: 06.03.2025

Pronouncement of order

: 12.03.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. These are two appeals preferred by the Assessee which were heard together and are being disposed of by way of a common order.

ITA No.413/Mum/2025

2. We would first take up ITA No.413/Mum/2025 which has been preferred by the Assessee against the order, dated 21/11/2024, passed by Commissioner of Income Tax (Exemption), Mumbai [hereinafter referred to as the '**CIT(E)**'] whereby the application filed by the Assessee in Form No.10AB seeking registration under Section 12AB of the Income Tax Act, 1961 [hereinafter referred to

as 'the **Act**'] was rejected.

3. The relevant facts in brief are that the Assessee was granted Provisional Registration under Section 12AB of the Act in Form 10AC [valid from Assessment Year 2022-2023 to Assessment Year 2024-2025]. The Assessee made an application in Form 10AB seeking renewal of registration which was rejected by way of the order impugned in the following manner:

- "2. *As the trust is registered, provisions of section 12A(1)(ac)(iii) are applicable to it, which is reproduced as under:*

- "(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;"*

3. *On perusal of the Form 10AB filed by the assessee it was observed that the assessee has applied under section 12A(1)(ac)(ii) which is valid only for trusts already having regular registration for five years and is seeking renewal of regular registration which is due to expire. The assessee, having provisional registration for three years, does not qualify to make the application u/s 12A(1)(ac)(ii). Thus, the application for registration in Form 10AB filed by the assessee is not allowable on the ground of application filed under wrong section.*

4. *In conclusion this application stands rejected."*
(Emphasis Supplied)

4. Being aggrieved, the Assessee has preferred the present appeal before this Tribunal.
5. During the course of hearing the Learned Authorised

Representative for the Assessee submitted that the Assessee had applied for renewal of provisional registration. However, the aforesaid application was rejected vide Order, dated 21/11/2024, on the ground that the renewal application was made under wrong provision [i.e. Section 12A(1)(ac)(ii)] which was applicable to charitable organization already holding regular registration and seeking renewal of the same. The grievance of the Assessee is that the Assessee was not put to notice about the defect in the application and the order rejecting application was passed without giving any opportunity to the Assessee. Per contra, the it was submitted by the Learned Departmental Representative that since the Assessee had made application under incorrect provision, the CIT(E) was justified in rejecting the application. In rejoinder, the Learned Authorised Representative for the Assessee submitted that it was on account of inadvertent error that incorrect provision was mentioned. It was submitted that all the documents and details furnished by the Assessee support the contention of the Assessee that the application was sought to be made under Section 12A(1)(ac)(iii) of the Act.

6. We have considered the rival submission, perused the material on record and examined the position in law.
7. It is admitted position that the Assessee was previously granted provisional registration under Section 12AB of the Act. It is the case of the Assessee that on consideration the documents and details filed along with the application it can be seen that the application was intended to be made under Section 12A(1)(ac)(iii) of the Act. However, since the Assessee was not confronted with defect in the application, the Assessee was not able to explain before the Learned CIT(E) that an unintentional mistake had occurred while filing the application. We find merit in the aforesaid

contention advanced on behalf of the Assessee. Taking into consideration overall facts and circumstances of the present case, we deem it appropriate to grant another opportunity to the Assessee to set out a case for renewal of registration in terms of Section 12A(1)(ac)(iii) of the Act. Accordingly, we set aside the Order, dated 21/11/2024, passed by the Learned CIT(E) and restore the application filed by the Assessee to its original number. The Learned CIT(E) is directed to either treat the application filed by the Assessee as application filed under Section 12A(1)(ac)(iii) of the Act or grant opportunity to the Assessee to file rectified application. It is clarified that the Learned CIT(E) would be at liberty to decide upon the merits of the application as per law after granting the Assessee an opportunity to make submission and file documents/details in support of the application. All rights and contentions of the Assessee are left open.

8. In terms of paragraph 7 above, the appeal preferred by the Assessee is allowed for statistical purposes.

ITA No.373/Mum/2025

9. Next we would first take up ITA No.373/Mum/2025. We find that the aforesaid appeal has also been preferred by the Assessee against the order, dated 21/11/2024, passed by the CIT(E).
10. During the course of hearing the Learned Authorised Representative for the Assessee submitted that this is a duplicate appeal and the same be dismissed as not pressed. It was submitted that the for the purpose of removing the defects marked by the registry, a complete set was filed again as a new appeal inadvertently. The Learned Departmental Representative did not raised any objections. Therefore, in view of the fact that we have adjudicated ITA No.413/Mum/2025 hereinabove, and taking into

consideration the statement made by the Learned Authorised Representative for the Assessee, the present appeal is dismissed as being a duplicate appeal.

11. In conclusion, ITA No.413/Mum/2025 is allowed for statistical purposes and ITA No.373/Mum/2025 is dismissed.

Order pronounced on 12.03.2025.

Sd/-
(Renu Jauhri)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 12.03.2025
Divya Nandgaonkar, Stenographer

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीयप्रतिनिधि , आयकरअपीलीयअधिकरण , मुंबई/ DR, ITAT,
Mumbai
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापितप्रति //True Copy//

उप/सहायकपंजीकार /(Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai