

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

(Through Virtual Hearing)

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos. 26 & 27/RPR/2025

निर्धारण वर्ष / Assessment Years : 2025-26

Appleby Foundation
308, Wallfort Ozone,
Fafadih, Raipur-492 001 (C.G)
PAN : AAZCA1872C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax (Exemption)
Bhopal.

.....प्रत्यर्थी / Respondent

Assessee by : S/shri Amit Goel &
Nitin Goyal, Advocates

Revenue by : Shri S.L Anuragi, CIT-DR

सुनवाई की तारीख / Date of Hearing : 25.03.2025

घोषणा की तारीख / Date of Pronouncement : 26.03.2025

आदेश / ORDER**PER BENCH:**

The captioned appeals preferred by the assessee emanates from the respective orders passed by Commissioner of Income Tax (Exemption), Bhopal dated 14.11.2024, rejecting the applications of assessee filed in Form 10AB for granting registration u/s. 12AB and consequent exemption u/s. 80G(5) of the Act.

2. The grievance of the assessee in both these appeals is rejection of registration by the department u/s.12AB of the Income Tax Act, 1961 (for short 'the Act') and consequent rejection of exemption u/s.80G(5) of the Act. In this regard, it is noted from the order of the Ld.CIT(Exemption) that there was no compliance by the assessee and therefore, the satisfaction as required u/s.12AB of the Act for granting of registration i.e. genuineness of the activities of the trust and objects of the trust could not have been examined by the Ld. CIT(Exemption) and resultantly, the application for registration and consequently exemption u/s.80G of the Act were rejected. In this regard, the observation of the Ld.CIT(Exemption) is culled out as follows:

The assessee has applied in Form 10AB for registration u/s 12A(1)(ac)(iii) & 80G(5)(iii) under the new provisions of Income Tax Act, 1961. Consequently, opportunity letters were issued to the assessee and various documents/details were called for; to process the said application and to verify the objects and activities of the assessee. The details of opportunity letters and response received thereof are as under:-

S.No.	In respect of registration u/s 12A(1)(ac)(iii) & 80G(5)(iii)		
	Date of opportunity letters issued	Hearing fixed on	Remarks
1.	11.09.2024	23.09.2024	Request for adjournment
2.	26.09.2024	01.10.2024	No reply received
3.	21.10.2024	06.11.2024	No reply received

Despite affording sufficient opportunities of being heard and adequate time, the assessee has not submitted required documents. Therefore, the application of the assessee cannot be processed due to non-compliance of opportunity notices by the assessee.

In view of the above, **due to non-compliance of opportunity notices**, the application of the assessee in Form 10AB for registration u/s 12AB & 80G(5) of the Income Tax Act is hereby **rejected**.

3. At the time of hearing, the Ld. Counsel for the assessee submitted that it is evident from the order of the Ld. CIT(Exemption), the requisite details and evidences as per Section 12AB of the Act was not filed by the assessee before the Ld. CIT(Exemption), because of which, he denied the regular registration and corresponding exemption to the assessee society. It was submitted by the Ld. Counsel that one final opportunity may be provided to the assessee so that it can represent its case on merits.

4. The Ld. Sr.DR has fairly conceded that the matter may be adjudicated denovo on merits before the first appellate authority providing one final opportunity to the assessee.

5. At this stage, we may herein observe that the issue involved in the present appeal is squarely covered by the decision of the ITAT, Division Bench, Raipur in the case of **Sewaa Path Sanstha Vs. CIT(Exemption), Bhopal, ITA No.74 & 75/RPR/2025, dated 19.03.2025**, wherein the Tribunal remanded the matter back to the file of the Ld.CIT (Exemption) observing as follows:

“7. We have heard the submissions of both the parties and perused the documents on record and facts and circumstances of the case. We find that as per the records and the order of the Ld. CIT(E), the relevant documents justifying the objects and genuineness of the activities which are required to be complied with as per Section 12AB of the Act, had been duly complied with by the assessee society. We are of the view that the purpose of the provisions for registration of trust u/s. 12A/12AB and granting of recognition u/s. 80G of the Act, derives their spirit from Directive Principles of State Policy enshrined in the Constitution of India. The Govt. of India makes every endeavour to provide welfare to one and all in the society at large, and in view thereof the registration for public charitable trusts/societies are given in order to ensure that through these charitable trusts benefits flows to entire society, so that the Directive Principles of State Policy are achieved. These provisions of registration u/s. 12A/12AB and granting of recognition u/s.80G of the Act enhance socio-economic welfare of the society. The provisions for registration u/s. 12AB of the Act and granting of recognition u/s 80G of the Act are in consonance with the objectives of the Government that once registration is given to public charitable trusts/societies, they would be able to perform charitable activities within the target area and to raise grants for using the same in those charitable activities, and in fact, they would also be able to extend claim of exemption u/s. 80G of the Act to the donors in respect of

those grants received. In entirety, these provisions enable the public charitable trust to do the charitable activities and enhance the objectives of the Government of India corresponding with the Directive Principles of State Policy enshrined in the Constitution of India.

8. Considering the entire parameters, we are of the view that if one final opportunity is provided to the assessee society to submit all the evidence/documents before the Ld. CIT(E), there could be no jeopardy caused to either of the parties. The Ld. CIT(E) ought to have come out with a speaking order after deliberating upon all the documents/evidence that would have been furnished by the assessee society before him to his satisfaction with regard to the objects and genuineness of the activities of the applicant/trust/society. In the present set of affairs, it is incumbent upon the Ld. CIT(E) as quasi-judicial authority to look into all the evidence furnished before coming to a conclusion with a speaking order.

9. In view thereof, the order of the Ld. CIT(E) is set-aside, and the matter is remanded to his file in terms of our aforesaid observations. As per the aforesaid terms the grounds of appeal raised by the assessee society stands allowed for statistical purposes. Needless to say, reasonable opportunity of being heard shall be provided to the assessee in the set aside proceedings.

10. In the result, appeal of the assessee society in ITA No.74/RPR/2025 is **allowed for statistical purposes.**

ITA No.75/RPR/2025

Grounds of appeal:

1. Ld. Commissioner of Income Tax(Exemption) is not justified in rejecting application filed by appellant for registration u/s 80G(5) and in cancelling the provisional registration without appreciating the facts of the case properly. The rejection order passed by CIT(Exemption) is arbitrary, illegal and not justified. The appellant is entitled for registration.

2. The appellant reserves the right to amend, modify or add any of the ground/s of appeal.

11. As the appeal filed by the assessee society as regards the cancellation of provisional registration u/s.12AB of the Act and rejection of grant of registration u/s 12AB has been remanded to the file of the Ld. CIT(E), therefore, appeal pertaining to corresponding exemption u/s.80G of the Act is also remanded

to his file with similar directions as were recorded by us in ITA No.74/RPR/2025.

12. In the result, appeal of the assessee society in **ITA No.75/RPR/2025** is **allowed for statistical purposes.**”

6. Respectfully following the aforesaid order, we set-aside the respective orders of the Ld. CIT(Exemption) and remand the matter back to his file for denovo adjudication while complying with the principles of natural justice as per similar terms. At the same time, it is directed that this being the final opportunity, the assessee shall duly comply with the hearing notices from the Ld. CIT(Exemption).

7. As per the aforesaid terms, the grounds of appeal raised by the assessee stands allowed for statistical purposes.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 26th March, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 26th March, 2025.
SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)

4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.