

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT
MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER MEMBER

ITA No. 85/Ind/2025
Assessment Year 2024-25

Nek Karya Sewa Samiti, 138 A, 60 Feet Road, Shanimandir Wali Gali, Dwarkapuri, Indore	<u>बनाम/</u> Vs.	CIT (Exemption), Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAEAN1998B		
Assessee by	Shri Harsh Vijayvargia, AR	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	25.03.2025	
Date of Pronouncement	26.03.2025	

आदेश / ORDER

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act' for sake of brevity) before this Tribunal. The assessee is aggrieved by the order bearing Number ITBA/EXM/F/EXM45/2024-25/1071266985(1)dated 16.12.2024 of the Ld. CIT(Exemption),

Bhopal, M.P. which is hereinafter referred to as the "**impugned order**".

2.

FACTUAL MATRIX

2.1 The appellant is a Society, registered under the Madhya Pradesh Societies Registration Act, 1973 vide certificate of Regn. No. 03/27/03/15206/12 Dated 09/05/2012 and has provisionally registered under Section 12A having provisional Registration No. AAEAN1998BE20211 from AY-2022-23 to AY 2024-25 through order of CIT exemption dated 07/04/2022.

2.2 The objective of the Society is to make available free of cost food packet to poor or lower-class students, Schools, hospital and various distribution centre in city and to spread awareness towards Medicine and Health in general. Society also provides Medical Facility for CT-scan and MRI at free of cost or concessional rate.

2.3 The assessee applied for regular registration under clause (iii) of sub-section C of section 12AB(1) of the act, as per the new

provision of Income Tax Act, 1961 in Form 10AB on 30 September 2023 via Ack No. 373639010300923.

2.4 Consequently, opportunity letters were issued and various documents/details were called for; to process the said application on 04 December 2023 but due to Asses portal issues, assessee could not access to the same on time. On 16 January 2024 assessee submitted the response along with the documents.

2.5 On 30 December 2023 & 19 February 2024 assessee again received notices but no further documents/details were called for. However, assessee again responded with all the documents which were earlier submitted on 16 January 2024.

2.6 Assessee submitted reply it also requested to allow more time to submit the donation details but no response was given and order for rejection was issued. This order of rejection of Ld. CIT (E) for regular registration was challenged before ITAT which has remanded the matter back to CIT (E) (ITA No.428/Ind/2024)

2.7 However on 16.12.2024 assessee received the rejection order in Form 10AD stating that-

The assessee has applied in Form 10AB for registration u/s 80G(5)(iii) under the now provision of Income Tax Act, 1961. Consequently, opportunity letter was issued to the assessee and various documents/details were called for, to process the said application and to verify the eligibility of the assessee. The assessee has submitted his reply during the proceedings.

2. On perusal of record, it is found that application for registration u/s 12AB has already been rejected vide this office order dated: 04.03.2024 and hence, provisional registration accorded by the CPC In Form 10AC has also been cancelled.

3. For issuing of registration u/s 80G, it is prerequisite to possess exemption certificate for its income. The relevant provision of the act is mentioned below for reference:

80G. (1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section,-

(5) This section applies to donations to any institution or fund referred to in 2(a)(iv), only If It is established in India for a charitable purpose and if it fulfills the following conditions, namely:-

(i) where the Institution or fund derives any income, such income would not be liable to Inclusion in its total Income under the provisions of sections 11 and 12 or clause (23AA) or clause (23C) of section 10.22

4. As the assessée doesn't have registration u/s 12AB w which is a prerequisite for obtaining approval u/s 80G, assessee is not eligible to obtain approval u/s 80G(5)(iii) of the Act.

5. Considering the facts of the case and reasons mentioned above and compulsory provisions of the Act, the application of the assessée filed in Form 10AB for grant of registration u/s 80G(6) of the Act is hereby rejected.

6. The provisional approval u/s 80G(6) in Form 10AC granted by CPC is also hereby cancelled as per the second proviso to Section 80G(5) of the Act.". [The impugned order) supra.

3.

Record of Hearing

3.1 The hearing in the matter took place before us on 25.03.2025, when the Ld. AR for and on the behalf of the assessee interalia contended that “**Impugned Order**” of Ld. CIT(E) is in violation of principles of natural justice and is therefore bad in law, illegal and not proper. Further issue of final registration is pending before CIT(E) on remand from ITAT. Therefore impugned order deserves to be set aside by this Tribunal in exercise of its appellate jurisdiction too.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and propriety of the “Impugned Order” basis records of the case and contentions canvassed before us.

4.2 We have minutely perused records of the case and have heard the rival submissions.

4.3 We are of the considered opinion that since Ld. AR has under taken before us that the assessee would file all requisite information/details before CIT (E) that it would be just fair and convenient and in the interest of ends of justice that impugned order be set aside and matter be remanded back to file of CIT(E) to pass a fresh order on *denovo* basis after assessee has

submitted all details as sought. Hence we set aside the “**impugned order**” as and by way of Remand on **denovo** basis.

5. Order

5.1 In the premises “**impugned order**” is set aside as and by way of remand on *denovo* basis.

5.2 Appeal is allowed for statistical purpose.

Order pronounced in open court on 26.03.2025.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 26/03/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore