

**THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

(Through Hybrid Mode)

**Before Shri Sanjay Garg, Judicial Member
And Shri Bijayananda Pruseth, Accountant Member**

Sl. No.	ITA No	Appellant (PAN No)	Respondent
1	1163/Srt/2024	Sardar Patel Vidya Sankul, Taspore Bujrang Goji Vyas Sarbtom, Bardoli, Surat-394350 PAN: AABTS2874D	CIT(Exemption), Ahmedabad
2	1165/Srt/2024	Sardar Vallabhbhai Patel Education Society, Isroli, Afwa, Bardoli-395620, Gujarat PAN: AABTS2590L	CIT(Exemption), Ahmedabad
3	1167/Srt/2024	Surat Education Society, 10/626, Havadia Chakla, Station Road, Surat-395003 PAN: AABTS2910C	CIT(Exemption), Ahmedabad
4	1169/Srt/2024	Shambhubhai Patel Charitable Trust, 10/626, Mavadia Chakla, Ambaji Road, Surat-395003 PAN: AABTS2911D	CIT(Exemption), Ahmedabad
5	1171/Srt/2024	Bajipura Gram Vikash Trust, At & Post: Bajipura, Tal: Valod, Surat-394640 PAN: AAATB6997R	CIT(Exemption), Ahmedabad
6	1172/Srt/2024	Patidar Samaj, 28, Sardar Nagar Society, Sumul Dairy Road, Katargam, Surat-395004, PAN: AACTP6188J	CIT(Exemption), Ahmedabad
7	1174/Srt/2024	Pathradia Gram Vikas Mandal Trust, At:	CIT(Exemption), Ahmedabad

		Pathradia, Post: Sarbhon, Tal: Bardoli, Dist: Surat- 394601 PAN: AACTP7176J	
8	1176/Srt/2024	Shree Palwada Kelvani Mandal, Sanskar Bhavan, Near Punam Nagar, Bhatar Road, Surat-395001 PAN: AABTS3039C	CIT(Exemption), Ahmedabad
9	1178/Srt/2024	Shree Ram Kabir Mandir Trust, Khangad Sheri Begampur, Surat-395003 PAN: AABTS3261J	CIT(Exemption), Ahmedabad
10	1180/Srt/2024	Bardoli Vibhag Gram Vikas Credit Society Charitable Trust, Satgara, Station Road, Bardoli, Surat-394601 PAN: AAAAB4304M	CIT(Exemption), Ahmedabad

Assessee by: Shri Akshay Mitish Kumar Modi,
A.R. Revenue by: Shri Ravi Kant Gupta, CIT-D.R.

Date of hearing : 26-02-2025
Date of pronouncement : 16-04-2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The captioned 10 appeals have been preferred by different assesses/trusts against the separate orders of the Learned Commissioner of Income Tax (Exemption), Ahmedabad [hereinafter referred to as "CIT(E)"] agitating against the rejection of their applications for registration u/s 12A(1)(ac)(iii) of the Income Tax Act (hereinafter referred to as the 'Act'). Since the facts and issues involved in all the captioned appeals are identical, hence the same have been heard together and are

being disposed of by this common order. ITA No. 1163/Ahd/2024 is taken as a lead case for the purpose of narration of facts.

ITA No. 1163/SRT/2024 :

2. The brief facts of the case are that Appellant/assessee - Trust the assessee was already registered as a charitable institution u/s 12A/12AA of the Act vide order dated 31.05.1999 of Id. CIT (Exemption). An amendment was brought into the relevant provisions by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, whereby, the institution which stood already registered u/s 12A/12AA of the Act on or before 01.04.2021, had to apply for fresh registration under the provisions of Section 12A(1)(ac)(i) of the Act. The assessee-trust accordingly applied for registration u/s 12A(1)(ac)(i) of the Act in the prescribed form i.e. Form No. 10A on 03.05.2021. The said application of the assessee was allowed vide order dated 28.05.2021 of the Ld. CIT(E) and the order of Registration was granted in the prescribed form i.e. Form No. 10AC which was valid up to AY 2026-27. Since in the order/Form No. 10AC, it was mentioned that the registration granted to the assessee-trust was provisional, hence, the assessee trust applied for final/regular registration u/s 12A(1)(ac)(iii) of the Act, which was rejected by the CIT (Exemptions) observing that the registration of the assessee was valid till AY 2026-27 and there was no need to apply again and hence, the application of the assessee was not maintainable. Being aggrieved by the said order of the Ld. CIT(E), the appellant trust has come in appeal before us.

3. We have heard the rival contentions of the Ld. Representatives of the parties and gone through the record. Before proceeding further, it will be relevant to reproduce the relevant part of the provisions of section 12A and section 12AB of the Act after amendment by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and subsequent amendments:

“ **12A.** (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a)

(aa)

(ab)

(ac) notwithstanding anything contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution,—

(i) where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020)], within three months from the first day of April, 2021;

(ii) where the trust or institution is registered under section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 and the period of the said registration or approval, as the case may be, is due to expire, at least six months prior to expiry of the said period;

(iii) where the trust or institution has been provisionally registered under section 12AB or provisionally approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, at least six months prior to expiry of period of the provisional registration or provisional approval, as the case may be, or within six months of commencement of its activities, whichever is earlier;

(iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;

- (v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;
- [(vi) in any other case, where activities of the trust or institution have—
 - (A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought;
 - (B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,]

and such trust or institution is registered under section 12AB;]”

Procedure for fresh registration.

12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,—

- (a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;
- (b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) or item (B) of sub-clause (vi) of the said clause,—
 - (i) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—
 - (A) the genuineness of activities of the trust or institution; and
 - (B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;
 - (ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),—
 - (A) pass an order in writing registering the trust or institution for a period of five years; or
 - (B) if he is not so satisfied, pass an order in writing,—

- (I) in a case referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (v) of clause (ac) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;
 - (II) in a case referred to in sub-clause (iv) or in item (B) of sub-clause (vi) of sub-section (1) of section 12A, rejecting such application, after affording a reasonable opportunity of being heard;
- (c) where the application is made under item (A) of sub-clause (vi) of the said clause or the application is made under sub-clause (vi) of the said clause, as it stood immediately before its amendment vide the Finance Act, 2023, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.”

4. A perusal of the above relevant provisions would reveal that the institutions which stood already registered u/s 12AA on the date of Amendment brought to section 12A of the Act by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 have to re-apply for fresh registration under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act [Section 12(1)(ac)(i)] and as per the relevant provisions of section 12AB of the Act, where such an application is made by such an institution under section 12(1)(ac)(i), those institutions have to be granted registration for five years by the Id. CIT(Exemption). The prescribed date for filing application for registration under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act was stipulated as three months from 1st Day of April 2021. However, the CBDT from time to time extended the date for filing of the said application. Further, the institutions which had to apply for the first time or the institutions which did not stand registered on the date of coming into force of the amended provisions as brought by the Taxation and Other Laws (Relaxation and Amendment of Certain

Provisions) Act, 2020, i.e. 01.04.2021 they could apply under Sub-clause (vi) of clause (ac) of subsection (1) of Section 12A **[Section 12(1)(ac)(vi)]** of the Act. In that case, the ld. CIT(Exemption) would grant provisional registration for three years. In those cases, wherein, the institutions have been granted provisional registration under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act, they have to apply for final/regular registration under sub-clause (iii) to clause (ac) to subsection (1) of Section 12A of the Act. Such institutions are required to apply for final registration at least six months prior to expiry of the period of provisional registration or within six months of commencement of its activities, whichever is earlier.

5. At this stage, it is pertinent to mention here that though, the Ld. CIT (E) in this case had granted registration under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act for 5 years, which as per the relevant provisions of the Act was supposed to be the regular registration, however there were discrepancies in the prescribed Form No. 10AC issued by the CIT(E) for grant of the said registration. A perusal of the certificate granted in Form no. 10AC by the ld. CIT (Exemption) dated 28.05.2021 reveals that ld. CIT (Exemption) mentioned in the title "Order for provisional registration" and even in column nos. 7 & 9 of the said order the ld. CIT (Exemption) has expressly mentioned that it was an order of provisional registration. Further in column no.10, the conditions subject to which the provisional registration was being granted have been mentioned. The assessee/appellant under the circumstances was of the reasonable belief that the registration granted to the appellant was provisional. The appellant-assessee, therefore, applied to the Ld. CIT(E) for final/regular registration under sub-clause (iii) of

clause (ac) of sub-section (1) of Section 12A of the Act. However, the Id. CIT (Exemption) vide a small and cryptic order rejected the application of the assessee stating therein that since the assessee was already holding a valid registration in Form No. 10AC and hence, the application of the assessee for grant of registration under sub-clause(iii) was not maintainable.

6. However, this issue has been resolved by the CBDT by issuance of a Circular bearing No. 11 of 2022 on 3rd June, 2022. The Board has clarified as under:-

“3. It may be noted that as per the new procedure for approval/registration of charitable entities, which was notified vide Notification No 19/2021 dated 26.03.2021, the entities seeking re-registration/ approval or provisional registration/ approval (fresh) are required to file an application in Form 10A. Further, the order granting registration or provisional registration or approval or provisional approval is made in Form 10AC subject to the fulfilment of certain conditions.

4. In view of the amendments made vide Finance Act, 2022, the conditions subject to which the registration/approval or provisional registration/ provisional approval was granted to trusts and institutions need to be revised to align the same with the amendments made by Finance Act, 2022.

5. In view of the above, it is hereby clarified that,-

- (i) the conditions contained in Form No. 10AC, issued between 01.04.2021 till the date of issuance of this Circular, shall be read as if the said conditions had been substituted with the conditions as provided in the Table 1 with effect from 1st April, 2022;*

Table 1

<i>Sl. No</i>	<i>Section Code</i>	<i>Section under which order is passed</i>	<i>Conditions</i>
<i>1</i>	<i>01</i>	<i>Clause (a) of sub-section (1) of section 12AB</i>	<i>As per Annexure A</i>

2	02	Clause (c) of sub-section (1) of section 12AB	As per Annexure B
3	03 to 06	Clause (i) of second proviso to clause (23C) of section 10	As per Annexure C
4	07 to 10	Clause (iii) of second proviso to clause (23C) of section 10	As per Annexure D
5	11	Clause (i) of second proviso to sub-section (5) of section 80G	As per Annexure E
6	12	Clause (iii) of second proviso to sub-section (5) of section 80G	As per Annexure F

(ii) where due to technical glitches, Form No. 10AC has been issued during FY 2021- 2022 with the heading “Order for provisional registration” or “Order for provisional approval” instead of “Order for registration” or “Order for approval”, then all such Form No. 10AC shall be considered as an “Order for registration or approval” and, in such cases where Form No. 10AC has been issued, -

(a) under section code 01 (applications seeking re-registration),-

(i) in the heading and in rows 6, 7, 9 and 10 the words ,“ provisional registration” shall be read as “registration”;

(ii) in row 8 the word “ provisionally registered” shall be read as “registered”;

(b) under section codes 03, 04, 05, 06 or 11 (applications seeking re-approval),-

(i) in the heading and in rows 6, 7, 9 and 10 the words ,“ provisional approval” shall be read as “approval”;

(ii) in row 8 the word “provisionally approved” shall be read as “approved”;

(iii) row no 5 of Form No. 10AC (issued for all section codes) shall be read as “Unique Registration Number” instead of “Provisional Approval/ Approval

Number” or “Provisional Registration/ Registration Number”, as the case maybe”.

7. A perusal of the above circular would reveal that under sub-clause (ii) of clause 5 of this Circular, it has been contemplated that where due to technical glitches, Form No. 10AC has been issued during FY 2021- 2022 with the heading “Order for provisional registration” or “ Order for provisional approval” instead of “Order for registration” or “Order for approval”, then in all such Form No. 10AC shall be considered as an “Order for registration” or “approval”, as the case may be, and, in such cases where Form No. 10AC has been issued, in the relevant columns, wherein the word “provisional registration” or “provisional approval” have been mentioned, they shall be read as “ registration” or “approval as the case may be.

8. From the above discussion, it comes clear that the relevant provisions of section 12A provide that institutions which were already approved under section 12AA of the Act prior to the amendment of 2020, were required to apply afresh under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act, which was to be granted for five years. The provisions nowhere state that such registration would be provisional. The confusion has arisen only due to technical glitches in Form No. 10AC, where such registrations were erroneously mentioned as "provisional". The CBDT Circular No. 11/2022 has clarified this position beyond any doubt by specifically stating that in such cases, the words "provisional registration" shall be read as "registration".

9. This issue has been considered by the Kolkata Bench of this Tribunal in identical circumstances in the case of Mallarpur Naisuva vs. CIT(Exemptions) in I.T.A. No.164/KOL/2024 vide

order dated 08.01.2025 (the judicial member herein being also the author of the said order) wherein, it was held that where an institution was already registered under section 12A/12AA prior to the amendment of 2020 and had applied for fresh registration under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act, registration so granted would be a regular registration and not provisional, notwithstanding the inadvertent mention of the term "provisional registration" in Form No. 10AC due to technical glitches.

10. In view of the above discussed position, since the registration granted to the assessee under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act is a regular registration valid for five years from AY 2022-23 to AY 2026-27, hence, there is no requirement to the assessee for applying for final/regular registration under sub-clause (iii) of clause (ac) of sub-section (1) of Section 12A of the Act. The present appeal of the assessee, thus, is infructuous and not maintainable and the same is accordingly dismissed. However, it is made clear that the dismissal of the above appeal of the assessee will not in any manner tantamount to affect the registration granted to the assessee vide order dated 28.05.2021 which is valid up to AY 2026-27.

11. In the result, the appeal filed by the assessee is dismissed.

ITA Nos. 1165/Srt/2024, 1167/Srt/2024, 1169/Srt/2024, 1171/Srt/2024, 1172/Srt/2024, 1174/Srt/2024, 1176/Srt/2024, 1178/Srt/2024 & 1180/Srt/2024

12. The facts and issue involved in these appeals are identical to that have been discussed above. In all these cases, the concerned assesses/appellants were already registered/approved

under section 12A/12AA of the Act prior to the amendment brought by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. The assessee applied for fresh registration under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A of the Act, however, due to technical glitches in Form No. 10AC, the registration was erroneously shown as "provisional", whereas, the CBDT has clarified that the same is a regular registration. Our findings given above, on the identical issue in the lead case ITA No. 1163/SRT/2024 will mutatis mutandis apply to all the captioned appeals. All the captioned appeals, thus, are hereby dismissed subject to the observations made above.

13. In the combined result, all the 10 appeals filed by different assessees are dismissed.

Order is pronounced on 16-04-2025.

Sd/-
(Bijayananda Pruseth)
Accountant Member
Ahmedabad : Dated: 16/04/2025

Sd/-
(Sanjay Garg)
Judicial Member

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Surat
6. Guard file.

By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Surat