



IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER  
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1024/PUN/2023

Rajarshi Shahu Shikshan Sanstha Inam Dhamani, A/P. Inam Dhamani, Tal. Miraj, Dist. Sangli – 416 416 Maharashtra PAN : AAATR8726J	Vs.	CIT (Exemptions), Pune
Appellant		Respondent

Appellant by	:	Shri Kishor B. Phadke
Revenue by	:	Shri Ajay Kumar Keshari
Date of hearing	:	11.02.2025
Date of pronouncement	:	21.04.2025

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The captioned appeal at the instance of appellant is directed against the order dated 22.08.2023 framed by Id. PCIT(Central), Pune denying grant of regular registration u/s.12AA of the Income Tax Act, 1961 ( in short 'the Act').

2. Appellant has raised following grounds of appeal :

*"1. Learned CIT (Exemption) has erred in fact and in law in rejecting the application for the Registration of the trust u/s. 12A(1) (ac) without appreciating the fact that, the genuineness de of the activity of the appellant trust was not in doubt before A.O. during the assessment proceeding of A.Y.11-12 to A.Y.17-18. as it is evident from assessment order and therefore the finding given in the order passed by CIT (Exem) are perverse and patently illegal.*

*2. Learned CIT (Exemption) has erred in fact and in law in rejecting the application of the appellant trust u/s.12(A) (1) (ac) despite the fact that, education institutes such as Secondary School and Primary School etc run by appellant are approved by state Govt and are eligible for Govt grants and ergo the activities of the appellant trust are genuine and*



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*are monitored by State Govt authorities as well and therefore the finding given in the order passed by CIT (Exem) are perverse and patently illegal. The activities of the trust are very much genuine and therefore registration be granted by dismissing the order of CIT(exemption).*

*3. Learned CIT (Exemption) has erred in fact and in law in rejecting the application of the appellant trust u/s.12(A)(1)(ac), relying on the report of PCIT Circle, Pune wherein the finding given in para 9(2) that, assessee has not filed the return of A.Y.2018-19 A.Y.2019-20 and A.Y.2020-21 is incorrect since appellant trust did file income tax return of A.Y.2018-19 and A.Y.2019-20 and have maintained books of account as well & return of A.Y.2020-21 could not be filed due to unavoidable reasons for which separate application u/s. 119 (2)(b) is being filed.*

*4. Learned CIT (Exemption) has erred in fact and in law in rejecting the application of the appellant trust u/s.12(A)(1)(ac) without considering the fact that, appellant trust has filed returns of A.Y.2019-20 and A.Y.21-22 and A.Y.2022-23 and the books of account are maintained and there are no donations received to the appellant trust from A.Y.19-20. Thus in previous 5 years appellant trust has not received any donations and therefore the rejection of application for the registration on the basis of pending issues of AY 11-12 to Ay 2018-19 is unjustified and causing hardship*

*5. Learned CIT (Exemption) has erred in fact and in law in rejecting the application of the appellant trust u/s.12(A)(1)(ac) without taking cognizance of the details submitted before him and therefore the order of rejection be quashed and registration be granted.*

*6. Learned CIT (Exemption) has erred in fact and in law in rejecting the application of the appellant trust without properly appraising the documents furnished and without providing adequate time and opportunity. Thus the order passed by CIT (exemption) deserves to be set aside and may please be set aside.*

*7. Learned CIT (Exemption) has erred in fact and in law in rejecting the application of the appellant trust u/s.12(A)(1)(ac) despite the fact that, the donations of the appellant trust received from A.Y.2012-13 to A.Y.2017-18 are not anyonmus and addition made by A.O. U/S.115BBC are challenged by the appellant trust and are pending for decision before CIT (A).*

*8. Appellant craves to leave add / amend or alter any other ground of appeal.'*

3. Appellant has also raised the following additional grounds:



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*“1. On facts and circumstances of the case and in law, the learned Principal Commissioner of Income Tax, Central Circle, Pune, erred in cancelling the registration of the appellant granted on 31/8/2005 u/s 12A(2) and granted on 2/9/2022 u/s 12A(1) (ac) (vi) on incorrect charges and analogies and without considering facts & law in proper perspective.*

*2. Appellant contends that the appellant is eligible for exemption u/s 10(23C)(iiiab) since the appellant trust is solely engaged in the activities for educational purposes and not for purposes of profit, and it is substantially financed by the government for the period from AY 2012-13 to AY 2022-23. Appellant contends that disturbing registration u/s 12AB despite entire income of the appellant being totally exempt, would be infructuous.*

4. Brief facts of the case are the appellant is a charitable trust registered under the Maharashtra Public Trust Act, 1950 and is engaged in imparting education through various schools and colleges in Miraj and adjoining district. Appellant was granted registration u/s.12A of the Act (old regime) on 29.03.2011. Further, the appellant received provisional registration under the new regime u/s.12AB on 02.09.2022. Thereafter, the appellant made an application for regular registration u/s.12A r.w.s.12AB of the Act which was filed on 28.02.2023. Prior to the application filed for regular registration, a survey was conducted u/s.133A of the Act at the appellant’s premises on 13.02.2019. Since the case of the appellant was centralised with Central Circle, Pune, Id.CIT(E) transferred the appellant’s application for regular registration to PCIT (Central), Pune to verify the genuineness of activities and compliance to requirements of any other law. The appellant was asked to furnish following details :

*“(i) Self-certified copy of provisional registration u/s 12AB in Form No. 10AC.*

*(ii) Date of commencement of activity.*



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(iii) Date of expiry of provisional registration u/s 12AB (as per Form No. 10AC).

(iv) An undertaking that there will be no infringement to the 1st proviso to Section 2(15) of the Income Tax Act, 1961.

(v) An affidavit/undertaking to the effect that the institution is complying with all the requirements of law as are material for the purpose of its objects as enumerated in the trust deed.

(vi) Complete details of any other law applicable for achievement of objectives and the proof of compliance of said law.

(vii) 'No Objection Certificate' from the owner of the premises from which the trust/institution is operating along with proof of his ownership.

(viii) Proof of identity of the main trustee/managing trustees/directors/ president / secretary of the institution

(ix) Year-wise list of all donations received (including corpus donations etc.) during the last 3 years/since inception, whichever is later viz. name of donor, address of donor, amount of donation, mode of donation etc.

(x) Year-wise list of donations in respect of amounts directly credited to respective earmarked funds without routing through Income & Expenditure account, during the last 3 years/since inception, whichever is later viz. name of donor, address of donor, amount of donation, mode of donation etc.

(xi) Year-wise list of all donations given by the institution during the last 3 years/since inception, whichever is later viz. name of the person, address of the person, amount of donation, mode of donation etc.

(xii) Copy of bank account statement for the last 3 years/since inception, whichever is later.

(xiii) Note on activities carried out in the last 3 years / since inception whichever is later along with supporting credible evidence. Also furnish the details of beneficiaries of the activities and how they are identified.

(xiv) Copies of computation of total income for the last 3 years / since inception, whichever is

(xv) Please explain:

(a) Whether any other application for registration / approval u/s 12AB / 10(23C)/80G has been filed by you? If yes, furnish copy of such application with date of application and present status.



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*(b) Whether any appeal is filed by you against order of rejection of approval/registration in the past, if any? If yes, furnish details viz. appellate /judicial authority, date of appeal and brief issue on which appeal is filed and the present status of appeal.*

*(c) Whether any of objects are religious in nature? If yes, give clause number and page number of the objects/MoA.*

*(d) Whether any of the objects are commercial/tainted with profit intent? If yes, give clause number and page number of the objects/MoA.*

*(e) Whether the objects are for any particular caste, creed, religion or community? If yes, give clause number and page number of the objects/MoA.*

*(f) Whether any part of income of the institution enures, directly or indirectly, for the benefit of a person specified u/s 13(3) of the Income Tax Act, 1961.*

*(g) Whether any business undertaking is held by you as per the provisions of Section 11(4) of 11(4A)? If yes, give complete details.*

*(h) Whether the returns of income for the last 3 years have been filed? If not, furnish reasons.*

3. In this connection you are hereby requested to ensure that:

*(i) Self-certified copies of attachments as per the provisions of Rule 17A(2) of the Income Tax Rules, 1962, as applicable, are required to be submitted.*

*Please also note that the application cannot be approved unless these attachments, whichever applicable in your case, are submitted. In absence of the same, your application will be liable to be rejected which may also result in cancellation of your provisional registration / approval, if any."*

5. There was part compliance to the notices called for by Id. PCIT and factual report was called for from the AO and thereafter final show cause notice was issued on 10.08.2023. Main contents of the said notice was that the appellant trust did not furnish the return of income for A.Y. 2017-18 and 2018-19.



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Appellant had claimed to have received voluntary donations during F.Yrs. 2011-12 to 2016-17 but failed to produce the list of names and addresses of donors. No details of donations received were maintained. Appellant could not produce any documents relating to the anonymous donations. Ld. AO thus alleged that the donations received amounting to Rs.10,94,99,000/- spread during F.Y. 2011-12 to 2016-17 could not be explained and are not genuine and therefore liable to be taxed u/s.68 of the Act. In the very same notice, observations were also made about the post survey assessments and the additions made from A.Y. 2013-14 to 2017-18 for the anonymous donations and were taxed u/s.115BBC of the Act. Since the appellant failed to furnish any reply. Ld. PCIT(Central) proceeded to conclude the proceedings rejecting the application for regular registration u/s.12A r.w.12AB of the Act.

6. Aggrieved appellant is now in appeal before this Tribunal.

7. At the outset, ld. Counsel for the appellant has not pressed Grounds of appeal No.4 to 7 as well as the additional grounds of appeal. Therefore, the said grounds are dismissed as 'not pressed. Ground No.8 being general in nature needs no adjudication.

8. For the remaining grounds, ld. Counsel for the appellant vehemently argued referring to various details filed in the paper book running into 229 pages and also referring to certain judicial precedents and mainly contended that the issue of anonymous donations has already been taken up by the AO and additions have been made. Further, the provisional registration has been granted for A.Yrs. 2023-24 and 2025-26 and in the



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impugned order there is no adverse finding for the period for application of regular registration for the A.Y. 2023-24. Further, the so called details relating to anonymous donations relate to the period not covered by present registration u/s.12AB of the Act. Therefore, there is mismatch between the findings and consequential action. He further submitted there is no condition prescribed u/s.12AB of the Act with respect to mandatory filing of income-tax return and audited books of account. Appellant filed return of income for the A.Yrs. 2018-19 to 2022-23 except for A.Y. 2020-21 which remained to be filed due to Covid-19 pandemic which prevailed across the country and books of account are regularly maintained from F.Y. 2019-20 to 2021-22. He further concluded his arguments stating that Id. PCIT has taken unduly hyper technical approach in rejecting the application on the ground that return of income was not filed. Appellant is a well established charitable trust and engaged in running many educational institutions spread across the rural areas, providing quality education to thousands of students across various regions. Primary object of the trust is to impart education, which is a recognised charitable activity under the Income-tax Act. Further, Id. PCIT has not disputed the genuineness of the trust activities or its commitment to public welfare and as such the approach disregarding the substantive nature of the trust operations and its contribution to society. It is settled legal principle that procedural lapse should not override the substantive justice particularly in case where the charitable nature and genuineness of the activities are undisputed.



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9. On the other hand, ld. Departmental Representative vehemently argued supporting the order of ld. PCIT and also relied on the decision of Hon'ble Punjab & Haryana High Court in the case of *CIT Vs. Savior Charitable Trust reported in (2013) 35 taxmann.com 295 (Punjab & Haryana)*.

10. We have considered the rival contentions and perused the record placed before us and carefully gone through the decisions relied on by both the parties. The sole issue raised before us is that ld.PCIT erred in rejecting the application for grant of regular registration u/s.12A r.w.s 12AB of the Act. We note that the appellant was subjected to survey and certain documents were found and seized and further the appellant was alleged to have received anonymous donations for F.Ys. 2011-12 to 2016-17 and even certain additions have been made by the AO in the assessments completed for A.Y. 2013-14 and 2017-18 making additions for anonymous donations and taxed u/s.115BBC of the Act. Before us, ld. Counsel for the appellant mainly contended that activities carried by the appellant are genuine and are being carried out for imparting education to thousands of students in the educational institutions run by the appellant. Further, the allegation about non-maintenance of books, non filing of income-tax return and not maintaining details of donors did not pertain for the period from which section 12AB has been enacted and the appellant has all the necessary details for the preceding three financial years prior to the year during which application u/s.12AB has been filed for regular registration. We notice that during the impugned proceedings on various occasions the appellant did not comply to the notices of hearing and made part compliance. Finding of ld.PCIT rejecting the



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appellant's application for regular registration u/s.12A r.w.s12AB reads as under :

*"7. Against the above factual matrix, it is noted that the assessee has not been able to rebut the factual findings of the AO and therefore did not comply with the show cause notice issued on 10/08/2023. The AO has explained in detail various discrepancies and violations committed by the assessee in his report, the relevant part of which has already been reproduced in the show cause notice issued on 10/08/2023. The AO has noted that –*

*i) The assessee did not file return of income for A.Ys. 2017-18 & 2018-19. The assessee had claimed voluntary donations received during the F.Ys. 2011-12 to 2016-17. On verification of the donors list for F.Ys. 2011-12, 2013-14, 2014-15 & 2015-16 submitted by the assessee during the earlier assessment proceedings, it was found that names of the same donors were appearing in the same order for all these years. Therefore, survey action u/s 133A was carried out on 13/02/2019 to verify the genuineness of the claim of donations*

*ii) The assessee had not maintained books of accounts since 01/04/2017 for F.Ys. 2017-18 & 2018-19,*

*iii) The assessee could not produce the list of donors for F.Y. 2012-13 i.e. A.Y. 2013-14. The assessee had not maintained donation receipts books and thus no receipts were issued to the so called donors for F.Ys. 2011-12 to 2018-19. Therefore, the same could not be produced at the time of survey. The assessee also could not produce any documents relating to the names of donors and the amount of donations received for any of these years.*

*iv) Since most of the donors denied having made any donations to the assessee, the claim of donations shown in the books of accounts from F.Ys. 2011-12 to 2016-17 were not genuine. Therefore, the claimed donations were liable to be taxed u/s 68 of the Act as the assessee failed to explain satisfactorily the nature and source of the sums credited to the books of accounts.*

*v) The assessee claimed that no donations were received during the F.Y. 2017-18. However, it was seen from the bank account statement that cash deposits of Rs 10,93,516/- were made during the F.Y. 2017-18. The sources of the cash deposits remained unexplained.*

*vi) During the course of survey action, Shri Ganesh Sitaram Koli, Accountant of the assessee in his statement recorded u/s 131 of the Act on 13/02/2019 categorically admitted the fact regarding non maintenance of books of accounts since 01/04/2017. He*



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*further admitted that the figures of donations appearing in the books of accounts upto 31/03/2017 are based on oral instructions received and that he has never come across any donation receipts issued by the assessee.*

*vii) Shri Vitthal Patil, President in his statement recorded u/s 131 of the Act on 14/02/2019 stated that donations to the assessee are collected through deputed persons i.e. (Karyakartas). The Karyakartas give the amount in advance in cash to the assessee and subsequently collect the donations from different villagers. The Karyakartas then prepare a list of donors & the amount so collected and submit the same to the trust at the later date. Thus, it is crystal clear that the claimed donations are actually sums advanced by persons (Karyakartas) other than the list of donors provided by the assessee.*

*viii) During the course of survey action, statement of Shri Vilas Magdum (one of the Karyakartas) was recorded u/s 131 of the Act, wherein it was confirmed by him that he had advanced sum of Rs 2,00,000/- to Shri Vithal Patil out of which he has received back Rs 1,00,000/-. It was also stated by him that no work regarding collection of donation for the assessee has been carried out by him.*

*ix) During the course of survey proceedings, various statements of donors have been recorded wherein they have denied having paid any donation to the assessee. Further, the claim of Karyakartas having collected donation on behalf of the assessee has also been found incorrect.*

*x) The assessee failed to substantiate any of the sources of the claimed donations during any of the above referred financial years. Further, during the survey action, assessee was confronted with the replies given by 26 donors to whom notices u/s 133(6) of the Act were issued by the ITO (I&CI), Kolhapur. In these replies the donors of the assessee had denied having made any donations to the assessee. The assessee could not provide any answer to the above query.*

*7.1 The AO has also explained in detail findings in course of assessment proceedings for various assessment years as under-*

*i. In A.Y. 2012-13, donations of Rs 1,36,50,000/- were treated as "anonymous donations" and taxed u/s 115BBC of the Act as the assessee failed to prove the genuineness of donors and the source of claimed donations of Rs 1,36,50,000/- credited to the books of accounts inspite of number of opportunities given to the assessee during the course of assessment proceedings u/s 147 of the Act. The AO carried out enquiries to verify the genuineness of donation during the assessment proceedings.*

*ii. For similar reasons, assessments for A.Y.s 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18 were also completed u/s 147 of*



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*the Act by treating the claimed donations as "anonymous donations" and taxed u/s 115BBC of the Act as the assessee failed to prove the genuineness of donors and the source of claimed donations credited to the books of accounts inspite of number of opportunities given to the assessee during the course of assessment proceedings.*

*iii. On the basis of survey findings, the case of the assessee for A.Y. 2018-19 was re-opened u/s 147 of the Act. During the course of survey, the assessee claimed that no donations have been received during the F.Y. 2017-18 relevant to A.Y. 2018-19. However, it was noticed from the bank account statement that cash deposits totaling to Rs 8,67,753/- have been made during the F.Y. 2017-18. Further, the assessee had not maintained books of accounts since 01/04/2017 i.e. F.Y. 2017-18 and had not maintained donation receipts books. Since the source of these cash deposits remained unexplained therefore the amount of Rs 8,67,753/- was added to the total income of the assessee being unexplained cash credit u/s 68 r.w.s 115BBC of the Act*

*7.2 The AO has further noted that the assessee during survey, post survey and assessment proceedings for AYs. 2012-13 to 2018-19 has failed miserably to satisfactorily explain the source of the claimed donations received during these years and these donations were found not in the nature of voluntary contributions and hence, the assessee was ineligible for exemption under section 11 of the Act in this respect. In view of the detailed facts the AO found that the activities of the assessee are not genuine and are not being carried out in accordance with its objects which makes it ineligible for registration u/s 12AB of the Act.*

*8. In this connection, while deciding the application for registration/approval, it is important to examine the charitable nature of the activities of the assessee against the backdrop of above stated facts. The pre-requisite for an educational institute to be considered for charitable purpose u/s 2(15) of the Act and entitled for registration u/s 12AB of the Act is to impart education on non-profit motive. In the present case, following discrepancies and violations have been found:*

*(i) Bogus Voluntary Donations: During the survey, post survey and assessment proceedings, the assessee could not produce any documents relating to the names of donors and the amount of donations received for F.Ys. 2011-12 to 2018-19. Most of the donors denied having made any donations to the assessee. The claim of donations shown in the books of accounts from F.Ys. 2011-12 to 2016-17 were found to be not genuine. From the statement of Shri Vitthal Patil, President, it was clear that the claimed donations are actually sums advanced by persons (Karyakartas) other than the list of donors provided by the assessee.*



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*During the course of survey action, statement of Shri Vilas Magdum (one of the Karyakarta) was recorded u/s 131 of the Act, wherein it was confirmed by him that he had advanced sum of Rs 2,00,000/- to Shri Vithal Patil out of which he has received back Rs 1,00,000/-. It has also been stated by him that no work regarding collection of donation for the trust has been carried out by him.*

*During the course of survey proceedings, various statements of donors have been recorded wherein they have denied having paid any donations to the trust. Further, the claim of Karyakartas having collected donation on behalf of the trust has also been found incorrect. Thus the assessee failed to substantiate source of the claimed donations during any of the above referred financial years. Further, during the survey action, assessee was confronted with the replies given by 26 donors to whom notices u/s 133(6) of the Act were issued by the ITO (I&CI), Kolhapur. In these replies the donors of the assessee had denied having made any donations to the assessee. Therefore, the assessee failed to explain satisfactorily the nature and source of the sums credited to the books of account. Accordingly, the AO treated the claimed donations as "anonymous donations and taxed u/s 115BBC of the Act.*

*Further during the current proceedings, the assessee again failed to submit any documentary evidences to prove the genuineness of donors and the source of claimed donations credited to the books of accounts of the assessee society in the above referred assessment years.*

*(ii) Non maintenance of Books of Accounts since 31/03/2017 and Donation Receipts Books:*

*As the AO has reported the assessee had not maintained books of accounts for F.Ys. 2017-18 & 2018-19. The AO has also reported that the assessee had not filed its original income tax return u/s 139 of the Act for A.Ys. 2018-19 & 2020-21. The assessee had also not maintained donation receipts books and thus no receipts were issued to the donors claimed by the assessee for F.Ys. 2011-12 to 2018-19. These facts have also been confirmed by Shri Ganesh Sitaram Koli, Accountant of the assessee in his statement recorded u/s 131 of the Act. In his statement Shri Koli has categorically admitted the above fact regarding non maintenance of books of accounts since 01/04/2017. Further, it has also been confirmed by him that the figures of donations appearing in the books of accounts upto 31/03/2017 are based on oral instructions received and that he has never come across any donation receipts issued by the assessee.*



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*From the above narrated facts it is quite clear that the assessee has not complied with the provisions of the Act by not maintaining books of accounts, donors receipts books, donors list with ID proof of the donor and by not filing its return of income regularly.*

*9. As per the provisions of section 12AB(1)(b)(i) of the Act, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, the Principal Commissioner or Commissioner shall 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 the genuineness of activities of the trust or institution and 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. The relevant provisions of section 12AB of the Act are reproduced hereunder.*

*"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) of the said clause,-*

*(1) 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 rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard,*



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*(c) where the application is made under sub-clause (vi) of the said clause, 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."*

*9.1 The information / details were called for under the provisions of section 12AB(1)(b)(i) of the Act. The details called for to ascertain the overall nature of the activities of the assessee are directly relevant to the present proceedings. However, the assessee has failed to submit complete details as per notices dated 30/05/2023 & 04/07/2023 and failed to comply with the show cause notice dated 10/08/2023 despite being given opportunity as discussed above. Thus, as discussed above, the assessee has failed to furnish complete details called for under the provisions of section 12AB(1)(b)(i) of the Act, to verify the genuineness of activities of the trust institution and to verify the compliance to requirements of any other law for the time being in force by the trust / institution as are material for the purpose of achieving its objects.*

*9.2 In addition to the above stated facts, there are ample evidences in this case to establish that the activities of the assessee claimed to be engaged in educational activities are not for charitable purposes as it has failed to establish the source of receipt of Rs. 10,94,99,000/- claimed as donation from so called donors in various F.Ys. 2011-12 to F.Y. 2016-17. Further, the assessee has also violated the provisions of the Act by not filing returns of income for A.Ys. 2018-19 & 2020-21 and also not maintaining books of accounts& donation receipt books.*

*9.3 In this connection reliance is placed on the following judicial pronouncements:*

*(i) The Hon'ble Supreme Court in the case of Commissioner of Income-tax (Exemptions), Kolkata v. Batanagar Education And Research Trust (2021] 129 taxmann.com 30 (SC) Ohas upheld the cancellation of registration u/s 12A of the Act with the following observations:*

*"Where substantial amount of money received as donations by assessee-trust by way of cheques was ploughed back or returned to donors in cash and assessee, misused status of trust conferred upon it by section 12AA, cancellation of registration under sections 12AA and BOG was justified"*

*(ii) The Hon'ble Supreme Court in the case of Commissioner of Income-tax (Exemptions) v. Jagannath Gupta Family Trust [[2019] 102 taxmann.com 34 (SC) held that "where registration of assessee trust under section 12AA was cancelled for receiving a bogus donation but High Court by impugned order restored registration holding that one bogus donation would not establish*



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*that activities of trust were not genuine, reason assigned by High Court was erroneous and ran contrary to plain language of section 12AA(3) and, therefore, order of High Court was to be set aside and matter was remanded to Commissioner (Exemptions) for consideration on merits"*

*(iii) The Hon'ble High Court of Punjab and Haryana in the case of Commissioner of Income-tax, Rohtak v. Savior Charitable Trust[2013] 35 taxmann.com 295 (Punjab & Haryana) held that-Failure to furnish complete details regarding donors would result in denial of registration as a charitable trust*

*9.4 In the light of the facts discussed above, I am satisfied that the activities of assessee are not genuine and not being carried out in accordance with the objects of the trust or institution and therefore, the request for registration/approval u/s 12AB of the Act cannot be accepted.*

*10. Considering the above, the application of the assessee for registration/approval filed on 28/02/2023 in Form No. 10AB under sub clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act is hereby rejected u/s 12AB(1)(b)(ii) of the Act. Also, the provisional registration granted under section 12A(1)(ac) (vi) of the Act on 02/09/2022 for A.Ys. 2023-24 to 2025-26 is hereby cancelled."*

11. From perusal of the above finding of ld. PCIT(Central), we notice that the ld.PCIT has observed that the activities of the appellant are not genuine and are not being carried out in accordance with the objects of the trust and observing so he rejected the registration u/s.12AB of the Act.

12. Before us, appellant is contending that the activities of the appellant trust are genuine but ld. PCIT has observed that the activities are not genuine. It is also an accepted fact that appellant had not furnished sufficient details as called for by ld.PCIT. The anonymous donations received by the appellant were alleged to have received during the period from F.Y. 2011-12 to F.Y.2016-17. Hon'ble Supreme Court in the case of *CIT (Exemptions) Vs. Janannath Gupta Family Trust reported in (2019) 102 taxmann.com 34 (SC)* dealing with the issue of



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registration u/s.12AA(3) of the Act observed that the Hon'ble High Court allowed the Writ Petition mainly on one ground namely that one bogus donation would not establish that the activities of trust were not genuine. Hon'ble Apex Court after considering the contentions of both the sides remitted the issue back to the file of CIT(E) observing as follows :

*"13. Having heard the learned counsel for the parties, we have perused the order passed by the Commissioner of Income Tax (Exemptions), Kolkata; the appellate-authority and the order impugned in this appeal. In the proceedings initiated for the cancellation of registration, mainly it was the case of the respondent-assessee that proceedings for cancellation were initiated only on the ex-parte statement of the representative of the donor, without giving any opportunity to the assessee. It is further submitted that though a survey was also conducted on the respondent-assessee, but nothing adverse was found during such survey to support the case of the appellant, to cancel the registration. Learned counsel also brought to our notice the various provisions of the Act but, at the same time, in support of the arguments that all donations are not exempted, but having regard to the reasons recorded in the impugned order, it is not necessary for us to delve deep at this stage. From the perusal of the order passed by the High Court, it is clear that the High Court has allowed the Writ Petition mainly on one ground, namely, that one bogus donation would not establish that the activities of the trust are not genuine.*

*14. We are of the view that such a reason assigned by the High Court is erroneous and runs contrary to the plain language of Section 12AA(3) of the Act. In view of the serious allegations made against the respondent trust, it is a matter for consideration of the issue, after giving opportunity as pleaded by the respondent but the High Court has committed error in entertaining the appeal against the remand order passed by the appellate-authority, and in quashing the order of cancellation of registration.*

*15. For the aforesaid reasons, we are of the view that the order impugned is liable to be set aside and the same is, accordingly, hereby quashed and set aside. However, it is made clear that we have not expressed any opinion on merits, and it is open to the Commissioner of Income Tax (Exemptions), Kolkata to consider all the issues on its own merit, uninfluenced by the observations made by the appellate authority, the High Court or in this order by this Court.*

*16. This appeal is allowed, with directions as indicated above, with no order as to costs."*



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13. Taking guidance from the above judgment of Hon'ble Apex Court and also considering the facts and circumstances of the case, we find that ld.PCIT(Central) has rejected the appellants' application mainly observing that the activities of the appellant are not genuine. In the impugned order, there is no discussion about various charitable activities carried out by the appellant and the discussion is only with regard to the anonymous donations, non-maintenance of books of account, income-tax return not filed for some assessment years and additions made by AO for the anonymous donations etc. It is also not in dispute that the appellant made partial compliance to some notices. At this juncture, we deem it proper to remit back the issue of registration u/s.12A r.w.s.12AB of the Act to the file of ld. PCIT(Central)/CIE(Exemptions), as the case may be, for afresh adjudication and the appellant is directed to file relevant details to prove the genuineness of the activities and also audited financial statements and details of donations received for past three years and furnish all other details necessary as called for by ld. PCIT for getting the approval for regular registration u/s.12A r.w.s.12AB of the Act. Needless to mention that appellant shall be given reasonable opportunity of hearing. Assessee is also directed to refrain from taking unnecessary adjournment unless otherwise required for reasonable cause. Grounds of appeal No.1 to 3 raised by the appellant are allowed for statistical purposes.



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14. In the result, the appeal of the appellant is partly allowed for statistical purposes

Order pronounced on this 21<sup>st</sup> day of April, 2025.

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 21<sup>st</sup> April, 2025.  
Satisfy

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.