


IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER  
AND SHRI UDAYAN DAS GUPTA, HON'BLE JUDICIAL MEMBER

ITA No. 348/Jodh/2024 (U/s. 12AA)

ITA No. 349/Jodh/2024 (U/s.80G)

Shriya Devi Mata Mandir Prajapat Samaj Seva Sansthan, Farara, Rajsamand – 343324 PAN No. AAVTS9510Q	Vs.	CIT (Exemption), Jaipur.
Assessee by	Shri Shyam S. Singhvi, C.A.	
Revenue by	Shri Manoj Kumar Mahar, CIT (D.R.)	
Date of Hearing	17.02.2025.	
Date of Pronouncement	21.03.2025. 	

ORDER

DR. MITHA LAL MEENA, A.M.:

These appeals, by the Appellant are directed against the order even dated 31.03.2024 of Commissioner of Income Tax (Exemption), Jaipur [hereinafter refer to as ("the CIT")], challenging rejection of its application for registration under section 12AA of Income Tax Act 1961(In short 'the Act') rejection of Application for Approval u/s 80G(5) of the Act.

2. Briefly the facts as per record are that application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 was filed by the applicant online on 24.09.2023. The Ld. CIT being not satisfied with the reply of



the applicant to the queries and show cause notice, hold that that applicant is not eligible for registration by observing that-

- Activities are not in accordance with the objects and application of part of income not towards objects of trust.
- Object for the benefit of particular caste/community.
- Non Genuineness of activities.

2.1 Consequently, the Ld. CIT has also cancelled the applicant's provisional registration under clause (vi) of clause (ac) of sub-section (1) of section 12A of the Income Tax Act and rejected application for approval u/s 80G (5) of the Act.

3. The Ld. Counsel for the assessee submitted that the appellant SHRIYA DEVI MATA MANDIR PRAJAPAT SAMAJ SEVA SANSTHAN is a society registered under Societies Registration Act 1958; Rajsamand & Rajasthan Public Trust Act 1959. The society has been provisionally registered u/s 12A (1) (ac) (vi) vide order dated 03/08/2022. In compliance, society applied for registration u/ s 12A (1) (ac) (iii) on dated 19/01/2023. The main object of the society are to serve for the welfare of the Prajapat Society to provide educational and medical help to poor and needy person & to run Dharamshala at no-profit-no-loss for the benefit of pilgrim at Farara (District Rajsamand) and any other activity for the welfare of the society. These have been further amended to bring clarity w.r.t nature of service activities covered under the definition of section 2 (15) and beneficiaries

to be society at large without profit any intent in the objects vide Para 3.7 and 3.10 of the objects as per the Vidhan Patra.

4. The Ld. AR further submitted that to achieve the objects, the trust acquired land admeasuring 0.5099 Hectare to construct and run Dharamshala in besides free medical assistance. In e-assessment proceedings and personal hearing, requisite details called for vide letter dated 12/01/2023, 16/03/2024, 26/03/2024 and hearing in person on 19/03/2024 have been attended and complied with successfully with requisite evidence. It has been categorically brought on record that investment made so far has been towards fulfilment of object laid in the Vidhan Patra at Para 3.10 to enable the society to function for the benefit of the "society at large" without any profit intent or the benefit of "Prajapat Samaj" in particular. The AR argued that the Ld. CIT (Exemption) has inferred wrongly without appreciating merits of the facts that purchase of land to construct and run Dharamshala is genuine charitable activity in consonance to the objects of the society only. Thus, he contended that the Ld. CIT (Exemption) rejected the application u/ s 12AB and 80G(5), and cancelled the provisional registration without considering the factual replies placed before him supported with documentary evidences before him. In support of its argument the Ld. AR has filed a tabular chart to rebut the objection of the Ld. CIT Exemption as under:



<p><u>1. Activities are not in accordance with objects and application of part of income is not towards objects of trust:</u> Per CIT:</p> <p>Object of trust mentioned at point no 3 of deed is meant for running Shriya Devi Temple, its management, celebration, function, puja, various religious function etc. He further observes that purchase of land for construction of Dharamshala is beyond object as clause 3.10 allows only maintenance of Dharamshala and not construction. (Pg. No. 4 &amp; 5 of order u/s 12AB)</p>	<p>One amongst several objects at Para 3 of the deed, Para 3.10 has been explained to construct and run Dharamshala in reply dated 26/03/2024. (Pg. No 50-51, 53, 54-59)</p> <p>An application for registration with Dev Sthan Vibhag dated 10/06/2023 giving detail of said land purchased summarising "object of the trust to be welfare of the society to provide educational and medical help and to run Dharamshala at no profit no loss". (Pg No 54-59)</p> <p>It has filed clarificatory amendment of clause 7 &amp; 10 of the object clause 3 on 22/03/2024 for registration and amended trust deed registered with Dev Sthan Vibhag. It too covers purchase land and constructs Dharamshala thereon (Pg No 50-51, 53)</p> <p>It is visibly clear from these documents on record before I.d. CIT (Exemption), the appellant did not violate sec 11 (1) (a) and/ or 12AB (4) in any manner as there has not caused specific violation</p>	<p>Ld. CIT (Exemption) did not consider facts in entirety available before him.</p> <p>On the one hand, registration with Dev Sthan Vibhag filed on 10/06/2023 confirm investment in purchase of land towards objects and clarificatory amendment w.r.t. construct and run Dharamshala is applicable retrospectively on the other. successfully negates observation relied by I.d. CIT (Exemption) as to amendment vis-à-vis purchase of land for Dharamshala. (Pg No 54-59, 66-69)</p> <p>Even otherwise, objects of the trust had been welfare of the society to provide educational and medical help to the society at large too in addition to run Dharamshala at no profit no loss does not disentitle the trust from registration.</p> <p>Without prejudicing to the above, it is submitted that even if any activity is beyond</p>
<p>He further observes that there has caused violation of 12AB (4) of the act. (Pg. No. 7 &amp; 8 of order u/s 12AB)</p>	<p>at the end of appellant. (Pg. No. 12 &amp; 17)</p>	<p>certain object, rejection of approval may not be logical and justified.</p> <p>Reliance is placed on following case laws:</p> <p>[2020] 114 taxmann.com 693 (SC); Ananda Social &amp; Educational Trust v/s CIT (E)</p> <p>[2024] 168 taxmann.com 437 (Delhi- T); Maharaja Agrasen Education Society v/s CIT (E)</p> <p>[2025] 170 taxmann.com 198 (Indore- T); Aruva Foundation v/s CIT (E)</p>
<p><u>2. Object for the benefit of particular caste/ community:</u> Per CIT:</p> <p>The I.d. CIT (Exemption) observes that appellant is making distinction on the basis of caste/ community and restricting several benefits only for Prajapat Samaj, it is clear that same is not eligible for registration u/s 12/ 80G. (Pg No. 11 of order u/s 12AB)</p>	<p><u>Vide reply dated 16/03 / 2024</u> and personal hearing on 19/03/2024, it has been categorically stated and clarified that word "Samaj" used in nomenclature refers to creator of the trust e.g. "Prajapat Samaj" and word "Samaj" at various places in object clause refers to the "beneficiaries" e.g. society at large. It has been mistakenly understood by Ld. CIT (Exemption). (Pg.No 31-32)</p> <p>Yid2.E.c2Jy-da!gd-2GLQ3.L2Q24, objects clause 3 of the trust had been summarily stated "welfare of the society at large to provide educational and medical help and to run Dharamshala at no profit no loss" with further clarificatory amendment in 3.7 &amp; 3.10 retrospectively. (Pg. No 50-51, 53, 5459)</p>	<p>The arrived I.d. CIT (Exemption) has arrived at conclusion on the basis of nomenclature e.g. creators of the trust and word "Samaj" used in the object clause has presumed to be Prajapat Samaj, is highly incorrect, unjustified and hypothetical.</p> <p>He did not appreciate the object clauses in the spirit of totality and his observation is based on one sentence in reply of the appellant dated 26/03/2024 at Para 4 at pg No 51)</p> <p>Had he taken note of registration documents filed with Dev Sthan Vibha and clarificato amendment in the object clause 3.7 &amp; 3.10</p>

		<p><u>applicable retrospectively</u> filed before him, there was no chance of such eventuality at</p>
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	<p>It has been explained that society in entirety recognizes ownership of Shriya Devi Temple to be of Prajapat Samaj as she happens to be their deity of creators of the trust and not beneficiaries'. There exist other objects extends to other area of service of mankind as stated above. (Pg. No ) Facts and arguments in ground No 1 above adds further strength to explain that object of the trust is for the benefit of society at large and restricted to particular community.</p>	<p>his end. He did not even consider contention put forth before him in this regard vide reply dated 16/03/2024 and 26/03/2024 but simply framed his mind in blanket manner. (Pg. No. ) The appellant <u>never accepted in the order sheet about the beneficiaries of the trust to be restricted for Prajapat Samaj</u>. It rather goes against the spirit of the objects laid and accepted in the deed, adopted and clarified under Act 1959. It is alternatively submitted that even if formation of the trust is considered charitable and religious purposes, provision of section 13 (1) (b) shall not be applicable because:  <ul style="list-style-type: none"> <li>• Clause 3 of the object clause if assumed religious for benefit of Prajapat Samaj by stretching imagination, <u>section 13 (1) (b) will not apply as it is applicable to charitable trust only.</u></li> <li>• Clause 3.7, 3.8, 3.9, 3.10, 3.13 &amp; 3.15 of the objects clause is expressly charitable for the entire community. It</li> </ul> </p>
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became trust with dual objectives  
Whereas section 13 (1) (b) is  
applicable for the charitable trust only  
and not religious or charitable cum  
religious trust.

Case law placed reliance by Ld. CIT  
(Exemption) does have application in the  
present appeal as neither charitable nor  
religious activity per object clause dealt in  
detail above had been for the benefit of  
Prajapat Samai. On fact it is Prajapat Samai  
who happens to be creator of trust and  
beneficiaries is society at large.

It has been a settled law that section  
13(1)(b) is relevant at the stage of  
assessment and not during registration  
process. Reliance is placed on following  
case laws:

120241 162 taxmann com 98 (Abad-T):  
Parul University Alumni Association v/s CIT  
(E)

Hindu Mahotsav Samiti Pali vs.  
CIT(E), Jaipur I T A No 444 &  
445/Jodh/2023

Thus, object of the trust evidently not  
framed for the benefit of particular caste  
and thus rejection of approval on this  
count is successfully negated.

<p>Genuineness of Activities: Per CIT (Exemption)</p> <p>He observes that activity is not genuine because Shriya Devi temple is old and trust has been formed in 2012, yet trust did not produced account Of income / expenditure / management/ donation wr.t. the temple.</p> <p>The trust did not did any charitable activity except purchase of land and</p> <p>therefore activities of the trust is not genuine. (Pg No. 12 of order u/ s 12AB)</p>	<p>Vide reply dated 26/03/2024, reasons for nil receipt and/or payment w.r.t. Shriya Devi temple had been given that the temple is small temple in the vicinity of Farara Mahadev and visitors are for the both are common and hence there is no additional receipt or expense in the hand of the trust.</p> <p>The Ld CIT (Exemption) express doubts over ownership of the temple is arbitrary in as much as its existence more than +300 years old, is only per convention and tradition without title (Pg No. 51 )</p>	<p>It is humbly argued three fold:</p> <p>The L.d. CIT (Exemption) has <u>arbitrarily doubted genuineness</u> of the activities on the strength of silly observations like:</p> <ul style="list-style-type: none"> <li>• Income &amp; Expenditure of the temple not maintained?</li> <li>• Ownership of the temple not produced?</li> <li>• There is no charitable activity except purchase of land?</li> </ul> <p>Firstly; It has been explained to be a conventional small temple attached with another temple Farara Mahadev open for entire society at large, <u>there had been no Income &amp; Expenditure in the hands of the trust.</u> However, three years audited income &amp; expenditure account with complete accounting and <u>explanation</u> as to receipt &amp; payment has been furnished before Ld CIT (Exemption) and after carrying detailed enquiry, he did not doubt its correctness too. (Pg No. 12 of order u/ s 12AB)</p> <p>Secondly; Per Google map, the temple is more than 300 years old open for the society at large, it has been stated the ownership always by possession unless challenged.</p> <p>Thirdly; <u>The appellant purchased land to construct and run Dharamshala for the benefit of pilgrim and tourists visiting temple to meet object clause 3.10 of the deed.</u> It has been well explained before L.d. CIT (Exemption) and he did not doubt genuineness of the activity except his observation that has been well explained in the above mentioned Para's.</p> <p>Further to the above, the role of Ld CIT (Exemption) in the assessment of trust activities and ensuring they align With its stated objectives denying registration.</p>
		<p>Reliance is placed on following case laws:</p> <p>Bai Navajbai Tata Zoroastrian Girls School vs CIT (Exemption) ITA No.: 2177/Mum/2021 Chamber of Indian Charitable Trust vs. CIT (Exemption) I.T.A. Nos. 2168 &amp; 2169/Mum/2021</p>

Reliance is placed on finding of Hon'ble Bench in Aadi Parshwa Som Sunder Swe Murti Pujak Jain Trust v/s cit (Exemption) Jaipur, on similar issues is placed for your kind consideration sir.

5. The Ld. CIT (DR) relied on the impugned order.
6. We have heard the rival contention and perused the material available on record. On perusal of objects of the assessee, it is abundantly clear that the assessee is engaged in the charitable activities of public welfare towards construction and running Dharamshala at no-profit- no loss" vide amended trust deed dated 26/03/2024 as claimed that for purposes the assessee trust was established. The CIT exemption has point out that dominant object in his opinion was not charitable in nature and how was charitable and the Activities either as genuine or in consonance to the objects of the Trust needs to substantiate.
7. From the perusal of the audited balance sheet, and other bank accounts statement it is clear that the assessee has utilised the fund for the purposes of construction of Dharamshala for pilgrims visiting Devi Mata Mandir and needy person who could not afford accommodation may constitute a charitable activity as per amended deed with clarity w.r.t nature of service activities covered under the definition of section 2 (15) and beneficiaries to be society at large without profit any intent in the objects vide Para 3.7 and 3.10 of the objects as per the Vidhan Patra.



8. The Ld. CIT Exemption discussed that the activities of the society are not in accordance with objects and income is used by the society trust on carrying out genuine activities for the benefit of particular caste/community indeed. It is noted that registration with Dev Sthan Vibhag filed on 10/06/2023 confirm investment in purchase of land towards objects and clarificatory amendment w.r.t. construct and run Dharamshala is applicable retrospectively however, Ld. CIT (Exemption) negated by referring to amendment vis-à-vis purchase of land for Dharamshala (APB, Pgs. No 54-59, 66-69).

9. Without prejudice to above, the objects of the trust had been welfare activities by the society to provide educational and medical help to the people by the society at large, in addition to run Dharamshala at no profit and no loss and that does not disentitle the trust from registration.

9. From the record, it is seen that the temple has been explained to be a conventional small temple attached with another temple of Farara Mahadev open for entire society at large, where three years audited income & expenditure account with complete accounting of receipt & payment has been furnished before Ld CIT (Exemption) and after carrying detailed enquiry, he did not doubt its correctness too (Pg No. 12 of order u/ s 12AB). As regards to ownership, the temple is more than 300 years old, open for the society at large, where the ownership shall always be determined by possession unless challenged.

10. In our view, Ld. CIT (Exemption) has been carried by nomenclature where the word "Samaj" used in the object clause has been presumed to be Prajapat Samaj, may be hypothetical and can not be justified in isolation. Had he gone through registration documents filed with Dev Sthan Vibha and clarification amendment in the object clause 3.7 & 3.10 filed before him, with open mind and fairness, there may be different interpretation of such eventuality at his end, because, he did not even consider contention put forth before him vide reply dated 16/03/2024 and 26/03/2024 but drawn irrational conclusion in arbitrary manner. In fact, the CIT exemption ought to have brought on record corroborative evidence to disprove the contention of the appellant that society activities either not charitable in nature or were restricted for Praiapat Samai only.

11. In fact, it is Prajapat Samaj who happens to be creator of trust and beneficiaries is society at large. Furthermore, it has been a settled law that section 13(1)(b) is relevant at the stage of assessment and not during registration process. However, whether the activities of the appellant society are charitable in nature and are in consonance to the objects of the Society needs to be examined at the stage of registration by the CIT Exemption.

12. Considering the factual matrix of the case and judicial pronouncement, it would be appropriate to restore the matter back to the file of the Ld. CIT



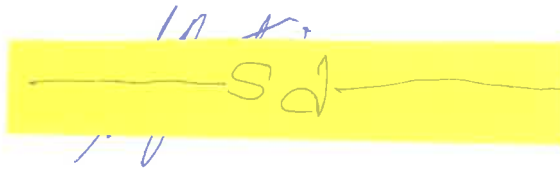
exemption to examine the issue afresh after considering the amended registration deed filed by the assessee and the relevant documentary evidence on record and may be filed in the course of the fresh proceedings before the Ld. CIT exemption and after granting adequate opportunity of being heard to the assessee.

13 Accordingly, both the impugned order are set aside with restoring the provisional registration and the matters are remanded back to the file of the CIT Exemption to examine the issues of grant of registration u/s 12AB and Approval u/s 80G(5) in accordance with amended law.

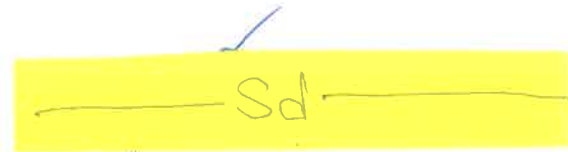
14. In the result both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on..21.../04..../2025 under Rule 34(4) of

Income Tax (Appellate Tribunal) Rules.



(UDAYAN DAS GUPTA)  
JUDICIAL MEMBER



(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER

Dated :21./04/2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder  
Assistant Registrar,  
Income Tax Appellate Tribunal,  
Jodhpur Bench,  
Jodhpur.