

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH, AGRA**

**BEFORE :SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA Nos.219 to 223/Agr/2024
Assessment Years: 2005-06 to 2009-10

Somani Charitable Trust, RSC College of Nursing, SikrodaBadori, Jhansi Road, Gwalior.	Vs.	ACIT, Circle-2, Gwalior.
PAN :AAGTS2167N		
(Appellant)		(Respondent)

And

ITA No.224/Agr/2024
Assessment Year: 2012-13

Somani Charitable Trust, RSC College of Nursing, SikrodaBadori, Jhansi Road, Gwalior.	Vs.	ACIT, Circle-2, Gwalior.
PAN :AAGTS2167N		
(Appellant)		(Respondent)

Assessee by	Sh. Anurag Sinha, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	27.03.2025
Date of pronouncement	16.04.2025

ORDER

Per Annapurna Gupta, Accountant Member:

The present appeals relate to the same assessee for different assessment years and are against orders passed by the learned Commissioner of Income-tax (Appeals), NFAC, Delhi [hereinafter referred

to as the "CIT(A)] u/s. 250(6) of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

2. At the outset itself Id. Counsel for the assessee pointed out that the short issue for consideration in all the present appeals was the denial of grant of exemption claimed by the assessee u/s. 11 of the Act for the reason that the assessee trust was not registered as a charitable society u/s. 12AA of the Act. Several grounds of appeals were raised before us, but the Id. Counsel stated that he wishes to make arguments with respect to ground Nos. 6, 7 & 8, which were identically worded in all these appeals and read as under :

"6. BECAUSE, the 'appellant' was granted registration under section 12AA of the Act vide Certificate dated 15.10.2018 by the Ld. CIT(Exemption) Bhopal in view thereof the Ld. 'CIT(A)' ought to have allowed exemption under section 11 as claimed for A.Y 2006-07 in appellate proceedings in view of revised proviso to sub-section (2) of section 12A w.e.f. 01.04.2013 providing that provisions of section 11 and 12 shall apply to preceding years too where proceedings are pending before the Assessing officer.

7. BECAUSE, the 'CIT(A)' had grossly erred in denying deduction, referring to section 119(2)(b) of the 'Act', under section 11 & 12 of the 'Act' which is available to the 'appellant' in view of revised proviso to sub-section (2) of section 12A as appellant was duly Registered under section 12AA w.e.f 01.04.2013.

8. BECAUSE, the proceeding before 'CIT(A)' was extension of assessment proceedings and claim raised before 'CIT(A)', which accrued on 15.10.2018 after passing of the Assessment Order dated 28.02.2013 ought to have been allowed by the 'CIT(A)'."

3. Referring to the same, learned counsel contended that the Id. CIT(Appeals) order denying assessee's claim of exemption u/s. 11 of the

Act was not sustainable since he has not properly interpreted the provisions of section 12A of the Act. His contention was that in terms of second proviso to section 12A(2) of the Act, where registration has been granted to a trust or institution u/s. 12AA, the provisions of section 11 & 12 would apply to the preceding assessment years also for which the assessment proceedings were pending before the Assessing Officer as on the date of grant of registration and the objects and activities of the trust remain the same for such preceding years. Our attention was drawn to the second proviso to section 12A(2) of the Act as under:

“**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:—

(aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under [section 12AA](#);

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of [sections 11](#) and [12](#) shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:

Second proviso omitted by the Finance Act, 2023, w.e.f. 1.4.2023. Prior to its omission, second proviso, as amended by the Finance Act, 2020 w.e.f. 1.6.2020 and Taxation and Other laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1.6.2020 and w.e.f. 1.4.2021, read as under –

“**Provided further** that where registration has been granted to the trust or institution under section 12AA or section 12AB, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year.”

His contention was that the Id. CIT(Appeals) had ignored this provision of law and had not applied the same to the facts of the case wherein the assessee had been granted registration vide order dated 15.10.2018 w.e.f. 01.04.2013 u/s. 12AA of the Act by the Id. CIT(Exemption), Bhopal and on the date of grant of registration, the appeals of the assessee were pending before the Id. CIT(Appeals), who had passed the first appellate order in all the cases on the same date, i.e., 12.04.2024. It was the contention of the Id. Counsel that the proceedings before the Id. CIT(Appeals) was an extension of assessment proceedings and claim raised before the CIT(Appeals) which accrued on 15.10.2018 after passing of the assessment order dated 28.02.2013 ought to have been allowed by the Id. CIT(Appeals). For the proposition that the proceedings before the Id. CIT(Appeals) was an extension of assessment proceedings and if the proceedings before the Id. CIT(Appeals) were pending on the date of grant of registration u/s. 12AA for any preceding year, the provisions of section proviso to section 12A(2) would apply. The assessee referred several case laws including that of Hon'ble High Court. Brief synopsis in this regard was filed before us, the contents of which are reproduced hereunder :

2. The Id. CIT(A) had passed similarly worded orders for Assessment Year(s) 2006-07, 2007-08, 2008-09, 2009-10 & 2012-13 rejecting the contention of the appellant that as the appellant is held to be a Charitable Society and in recognition thereof it has been granted registration vide order dated

15.10.2018 with effect from 01.04.2013 under section 12AA of the 'Act' by the Ld. Commissioner of Income Tax (Exemption) Bhopal in pursuance of directions by the **Hon'ble ITAT order dated 30.07.2018** in view thereof the Ld. 'CIT(A)' ought to have allowed exemption under section 11 as claimed for A.Y 2006-07, 2007-08, 2008-09, 2009-10 & 2012-13 in appellate proceedings in view of revised proviso to sub-section (2) of section 12A providing that provisions of section 11 and 12 shall apply to preceding years too where proceedings are pending before the Assessing officer and the proceeding before 'CIT(A)' was extension of assessment proceedings and claim raised before 'CIT(A)', which accrued on 15.10.2018 after passing of the Assessment Order dated 28.02.2013 ought to have been allowed by the 'CIT(A)'.

3. The Ld. CIT(A) through the orders impugned held as under:

“5.6. I have gone through the facts & circumstances of the case, remand report & rejoinder filed by the appellant. As per the appellant the trust was registered u/s.12AA of the Income Tax Act, 1961 with effect from 01.04.2013 i.e. appellant itself has confirmed that the registration u/s. 12AA was made effective from 01.04.2013 and hence, the same can't be applied for the year in question being the A.Y. prior to the date of registration u/s. 12AA made effective.

5.7. From the above it is clear that the appellant has not satisfied the conditions laid down under the Act for claiming deduction u/s. 11 & 12 of the Act as mentioned in above paras & therefore the action of AO of disallowing expenditure u/s. 11 & 12 of the Act is upheld particularly because of the fact that as per section 119(2)(b) of the Act the CIT(A) is not authorized to admit application or claim of exemption which says that *“ the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any income-tax authority, not being 30[a Joint Commissioner (Appeals) or] a Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.”*

5.8. Further, several case laws relied upon by the appellant are also distinguishable on facts and hence not applicable. Accordingly, grounds of appeal are liable to be dismissed.”

Cases relied upon

(a) **CIT Vs M/s Shree Shyam Mandir
[2018] 400 ITR 466 (Raj)**

Exemption u/s 11 - trust or institution has been granted registration under section 12AA - Applicability of the registration granted to a trust or institution to earlier years - Non-application of registration for the period prior to the year of registration caused genuine hardship to charitable organisations - ITAT applying the Proviso of Section 12A(2), inserted w.e.f. 01.10.2014, with

retrospective effect in spite of the facts that the proviso has no indication of being applied for the earlier years retrospectively - HELD THAT:- At the time of registration, the authority is required to look whether it is registered under the state Act or under any other Act. There is no distinction between private trust and public trust. The contention which has been raised by counsel for the appellant regarding the expenses, diversion or control by the private people will come only when the assessment has taken place. For the purpose of trust registered and the income used is for the charitable purpose or not and whether income from public trust if it is going for any private use will negate the very object of the Trust Act which is the main intention of the legislation, is not to be considered at this stage.

As long as the objects were charitable in nature in the earlier years and in the year in which registration u/s 12AA was granted, the existence of trust for charitable purposes in the earlier years cannot be doubted with. Even otherwise, no adverse findings were given by the revenue with regard to the existence of the assessee society for charitable purposes in the assessment years under appeal.

A receipt which is by birth, capital in nature, cannot change its character merely for want of registration of society u/s 12AA of the Act. It is not the case of the revenue that the donations received are meant for general functioning of the charitable objects of the society, in which event, the donations received thereon would take the character of revenue receipts requiring to be credited in the income and expenditure account for utilization towards charitable objects thereon. Hence, we hold that in any case, the donations received by the assessee society cannot be brought to tax in the assessment.

We hold that since the only reason for denial of exemption u/s 11 was absence of registration u/s 12AA (which was granted to assessee society on 29.10.2010 with effect from 1.4.2010) for the relevant assessment years and on no other ground, the benefit of change in law as above by Finance Act 2014 should be available and for all the years, the benefit of exemption should be available on the date of registration as all the assessments were pending as shown above. In this connection, it requires mention specifically that all the receipts of the donation were proved on enquiry to have been received from the claimed donors and utilized for the specific purpose (construction of old age home) for which they were received.

In conclusion, we hold that the insertion of the proviso to section 12A(2) of the Act has to be construed as retrospective in operation - This issue stands answered in favour of the assessee by Shree Bhanushali Mitra Mandal Trust [2016 (4) TMI 578 - ITAT Ahmedabad], wherein, it was held that appeal is a continuation of the original proceedings and assessment proceedings pending before an appellate authority should be deemed to be "assessment proceedings pending before the Assessing Officer" within the meaning of Section 12A. - Decided in favour of assessee.

- (b) **Shri Krishnabai Ghat Trust Vs ITO (Exemptions)
2019 (5) TMI 618 - ITAT Pune**

Exemption u/s.11 - deemed registration u/s 12AA - applicability of Proviso to Section 12A sub-section (2)during appeal proceedings or restricted to assessment proceedings - registration granted to the assessee u/s.12AA during the pendency of proceedings before the Id. CIT(A) - HELD THAT:- What AO can do, can be done by CIT(A) in an appeal before him. Even what the AO could have done but failed to do, can also be done by him. It shows that the powers of a CIT(A) in an appeal against an assessment order are almost similar to those of an AO. If extend this analogy to the provisions of section 12A(2), an irresistible conclusion which follows is that the benefit of the proviso is available not only when the assessment proceedings are pending before the AO but also when an appeal against the assessment order is pending before the Id. CIT(A). It is so for the reason that the appeal proceedings are nothing but continuation of the assessment proceedings. As at the time of granting registration by the Id. CIT (Exemptions) to the assessee, the appeal of the assessee was pending before the Id. CIT(A), in my considered opinion, the benefit of first proviso to section 12A(2) ought to have been granted.

My view is fortified by the judgment of Hon'ble Rajasthan High Court in CIT (Exemptions) Vs. Shree Shyam Mandir Committee [2017 (10) TMI 1450 - Rajasthan High Court] in which it has been held that "An assessment proceedings which is pending in appeal before the appellate authority should be deemed to be "assessment proceedings pending before the AO." within the meaning of the term as envisaged under the proviso. It follows there from that the assessee which obtained registration u/s.12AA of the Act during the pending of appeal was entitled for exemption claimed u/s.11.

The additional ground thus raised is allowed by holding that the assessee would be entitled to exemption u/ss. 11 and 12 of the Act for the year under consideration on the reason that the registration was, in fact, granted to the assessee u/s.12AA during the pendency of proceedings before the Id. CIT(A).

In the light of my above conclusion on the additional ground, the impugned order is set-aside and the matter is restored to the file of AO for framing a de novo assessment as per law after allowing a reasonable opportunity of hearing to the assessee. Needless to say, the assessee in such assessment proceedings would be considered to have been granted registration and the provisions of sections 11 and 12 shall apply pro tanto. Appeal is allowed for statistical purposes.

**(c) ITO(E) Vs M/s. Centre For Cellular And Molecular Platforms
2019 (8) TMI 1717 - ITAT Bangalore**

Exemption u/s 11 - Applicability of the registration granted to a trust or institution to earlier years - Non-application of registration for the period prior to the year of registration caused genuine hardship to charitable organisations - claim of the assessee that since the registration of the

assesseeconcern has been granted w.e.f. 21.09.2016, it comes into effect during the course of pendency of firstappeal proceedings and the proviso to sub-section 2 of section 12A should be construed liberally and theassessee should be granted exemption u/s. 12A - HELD THAT:- As relying on M/S Shree Shyam Mandir [2017 (10) TMI 1450 - Rajasthan High Court] registration was granted to the assesseeu/s. 12AA of the IT Act on 29.07.2013. **Under these facts, it was held by Hon'ble Rajasthan High Court that appeal is continuation of original assessment proceedings and proceedings before appellate authorities is covered by the proviso to subsection 2 of section 12A of the IT Act. In the present case also, the facts are similar and hence, respectfully following this judgment of Hon'ble Rajasthan High Court, we decline to interfere in the order of Id. CIT(A). Appeal filed by the revenue is dismissed.**

(d) **Lady Kikabai Premchandlyambail Trust Vs ITO
2020 (2) TMI 448 - ITAT Pune**

Exemption u/s 11 and 12 denied - deemed registration u/s 12AA - registration granted to the assessee u/s.12AA during the pendency of proceedings before the Id. CIT(A) - In the interim, the assessee had applied for fresh registration before the CIT(E) and CIT(E) has granted registration - HELD THAT:- **As decided In Shri Krishnabai Ghat Trust Versus ITO (EXEMPTIONS) , WARD-1, Pune [2019 (5) TMI 618 - ITAT Pune] what AO can do, can be done by CIT(A) in an appeal before him. Even what the AO could have done but failed to do, can also be done by him. It shows that the powers of a CIT(A) in an appeal against an assessment order are almost similar to those of an AO. If extend this analogy to the provisions of section 12A(2), an irresistible conclusion which follows is that the benefit of the proviso is available not only when the assessment proceedings are pending before the AO but also when an appeal against the assessment order is pending before the Id. CIT(A). It is so for the reason that the appeal proceedings are nothing but continuation of the assessment proceedings.**

As at the time of granting registration by the Id. CIT (Exemptions) to the assessee, the appeal of the assessee was pending before the Id. CIT(A), in my considered opinion, the benefit of first proviso to section 12A(2) ought to have been granted.

Ground thus raised is allowed by holding that the assessee would be entitled to exemption u/ss. 11 and 12 of the Act for the year under consideration on the reason that the registration was, in fact, granted to the assessee u/s.12AA during the pendency of proceedings before the Id. CIT(A). - Decided in favour of assessee.

(e) **Sree Sree Ramkrishna Samity Vs DCIT
[2015] 44 ITR (Trib) 678 (ITAT [Kolk])**

Reopening of assessment - eligibility for exemption under section 11 & 12 denied - existence of the assessee society for charitable purposes in the assessment years under appeal - Held that:- It is an established position in law that a proviso which is inserted to remedy unintended consequences

and to make the provision workable, a proviso which supplies an obvious omission in the section and is required to be read into the section to give the section a reasonable interpretation, requires to be treated as retrospective in operation, so that a reasonable interpretation can be given to the section as a whole and accordingly the said insertion of first proviso to section 12A(2) of the Act with effect from 1.10.2014 should be read as retrospective in operation with effect from the date when the condition of eligibility for exemption under section 11 & 12 as mentioned in section 12A provided for registration u/s 12AA as a pre-condition for applicability of section 12A. A receipt which is by birth, capital in nature, cannot change its character merely for want of registration of society u/s 12AA of the Act. It is not the case of the revenue that the donations received are meant for general functioning of the charitable objects of the society, in which event, the donations received thereon would take the character of revenue receipts requiring to be credited in the income and expenditure account for utilization towards charitable objects thereon. Hence, we hold that in any case, the donations received by the assessee society cannot be brought to tax in the assessment.

We hold that since the only reason for denial of exemption u/s 11 was absence of registration u/s 12AA (which was granted to assessee society on 29.10.2010 with effect from 1.4.2010) for the relevant assessment years and on no other ground, the benefit of change in law as above by Finance Act 2014 should be available and for all the years, the benefit of exemption should be available on the date of registration as all the assessments were pending as shown above. In this connection, it requires mention specifically that all the receipts of the donation were proved on enquiry to have been received from the claimed donors and utilized for the specific purpose (construction of old age home) for which they were received. In conclusion, we hold that the insertion of the proviso to section 12A(2) of the Act has to be construed as retrospective in operation. - Decided in favour of assessee.

**(f) Navsari Malesar Behdin Anjuman Vs ITO
2020 (4) TMI 576 - ITAT Surat**

Exemption u/s.11 denied - assessee trust was not registered u/s.12AA at the time of assessment - HELD THAT:- The benefit of change in Law as above by Finance Act, 2014 should be available and for the year under consideration, the benefit of exemption should be available on the date of registration as the assessment of the year was pending because as per chronology of events the assessee had already applied for registration u/s.12A on 03.03.2016 and the assessment order was passed on 15.03.2016 – the registration u/s.12AA was granted on 28.03.2016 and the same was also produced during the First Appellate Authority. Referring to observations of the Co-ordinate Bench of Tribunal in SNDP Yogam VERSUS Asst Director Of Income Tax (Exemption), Range 4, Kochi [2016 (3) TMI 1110 -ITAT Cochin] we are in agreement with the view taken therein by the Co-ordinate Benches.

First proviso of section 12A(2) as had been made available to the statute vide the Finance Act, no.2[2014], being a beneficial provision intended to

mitigate the hardship in case of charitable institutions, thus find ourselves to be in agreement with the view taken by the Tribunal in the aforesaid appeals. First proviso of section 12A(2) would be applicable to the case of the present assessee. Therefore, we set-aside the order of the Ld.CIT(A), consequently delete the additions. Therefore, this ground raised by the assessee is allowed.

(g) Prajapati Samaj Maroli Bazar, C/o Ganpatbhai Mistri Vs DCIT 2023 (1) TMI 414 - ITAT Surat

Exemption u/s 11 - Denial of exemption as assessee was not having registration u/s 12AA for the year under consideration - AO held that the assessee was granted registration u/s 12AA on 25/10/2018 effective from 24/04/2018 i.e. A.Y. 2019-20, hence, the assessee is not eligible for deduction u/s 11 and 12 for the year under consideration - HELD THAT:- Assessee while making submission vehemently relied upon the decision of Navsari Malesar Behdin Anjuman, Agiary Street, Malesar, Navsar 2020 (4) TMI 576 -ITAT SURAT wherein the Coordinate Bench of Tribunal while relying upon the decision of Punjab Educational Society 2017 (12) TMI 989 - ITAT AMRITSAR held that benefit of first proviso to Section 12A(2) of the Act would be applicable to the facts of the said case. Benefit of Section 11 is to be given if the registration is obtained even during the pendency of appeal before the Id. CIT(A).

Again, coming to the fact of the case, we find that the assessment in the present case was completed on 23/02/2021, before that date, the registration was granted vide order dated 25/10/2018.

As in SNDP Yogum case 2016 (3) TMI 1110 - ITAT Cochin held that proviso to section 12A(2) inserted from .01.10.2014 has retrospective effect thus, and there should be no denial of relief under section 11 to a trust if it had obtained registration during the pendency of appeal. Similar view was also taken in Shree Bahnushali Mitra Mandal Trust 2016 (4) TMI 578 - ITAT AHMEDABAD Thus, respectfully following the decisions of coordinate benches, find that the assessee is also eligible for first proviso to Section 12A(2) of the Act. Grounds of appeal raised by the assessee is allowed.

(h) St. Jude's Convent School and Others Vs ACIT 2016 (9) TMI 1382 - ITAT Amritsar

Benefit of Section 11 and 12 - amendment to sec 12A(2) - Retrospectivity - whether payment of Education Extension Services to the Diocese of Jalandhar, notified U/s 10(23C)(vi), as well as registered U/s. 12A of the Act and pursuing the object of prompting education through running various schools, can be regarded as application of income? - Held that:- The first proviso to section 12A(2) of the Act is applicable retrospectively. Likewise, for the same reasoning, it is also held, regarding the second batch of appeals, that even the second proviso to Section 12A(2) is retrospective in nature and the completed assessments in these cases ought not to have been reopened only for non-registration for the relevant assessment years. Whether the assessment proceeding "pending before the Assessing Officer", as stated in the first proviso to Section 12A(2) can be taken as

"pending in appeal"? - Held that:- This issue also stands answered in favour of the assessee by Shree Bhanushali Mitra Mandal Trust [2016 (4) TMI 578 - ITAT AHMEDABAD] wherein, it was held that appeal is a continuation of the original proceedings and assessment proceedings pending before an appellate authority should be deemed to be "assessment proceedings pending before the Assessing Officer" within the meaning of Section 12A. Accordingly, it is held that the appellate proceedings before the appellate authorities are deemed to be assessment proceedings pending before the Assessing Officer

Whether payment of Education Extension Services to the Diocese of Jalandhar, notified U/s 10(23C)(vi), as well as registered U/s. 12A of the Act and pursuing the object of prompting education through running various schools, can be regarded as application of income - Held that:- Here, it is not in dispute that the Diocese of Jalandhar is not only registered U/s 12A of the Act, it is also notified U/s. 10(23C)(vi) of the Act. Besides, for A.Ys. 2007-08 to-2013-14, vide orders passed U/s 143(3) of the Act (copies on record), its stands taken note of that the Diocese of Jalandhar is running various schools and that exemption U/ss. 11 and 12 of the Act has been allowed with regard to its income. Therefore, it has wrongly been held in the impugned order that the payment of education extension services made by the assessee to the Diocese of Jalandhar out of the current year income, as is also available from the income and expenditure account of the relevant financial years, is not allowable as application of income.

The restriction/embargo in donation by one charitable Trust to another is only restricted to accumulations made in excess of 15% of income of the Trust, as referred to in Section 11(2) of the Act; and that the said prohibition does not apply, to current year income, or even to accumulations up to 15% U/s. 11(l)(a) of the Act.

It may be reiterated that the Diocese of Jalandhar stands notified U/s. 10(23C)(vi) of the Act. This provision, it may be noted, is applicable to universities and educational institutions, which exist solely for educational purposes and not for purposes of profit. Neither the assessment order/s of the assessee/s, nor the assessment order/s of the Diocese of Jalandhar, carry any finding of the Diocese of Jalandhar pursuing religious objects. Merely having religious objects does not amount to pursuing religious objects, It is the actual objects pursued and the actual activities undertaken, which are of consequence so far as regards our present purposes.

Therefore, it cannot be denied that the Diocese of Jalandhar is engaged solely in pursuing the object of education. It runs various schools. Hence, it is but a charitable institution pursuing objects which are similar to those of the assessee. That being so, the amount paid to the Diocese of Jalandhar being out of the current year income and not out of accumulated income, such payment of education extension services to the Diocese of Jalandhar is to be allowed as application of the income. It is so ordered.

In view of the above discussion, we hold that (1) the subsequent grant of registration in all the cases respectively operates retrospectively for all the years under consideration; and (2) payment of education extension services to the Diocese of Jalandhar is application of income, duly satisfying the

provisions of Sections 11(l)(a) and 11(3)(d) of the Act. - Decided in favour of assessee.

(i) **St. Joseph's Convent School Vs ACIT
2017 (2) TMI 1511 - ITAT Amritsar**

Exemption u/s 11 - Registration u/s 12AA - amendment to sec 12A(2) - Retrospectivity - scope of amendment made in section 12A vide Finance (No.2) Act, 2014 the Income Tax Act - HELD THAT:- As decided in ST. JUDE'S CONVENT SCHOOL AND OTHERS [2016 (9) TMI 1382 - ITAT AMRITSAR] The first proviso to section 12A(2) of the Act is applicable retrospectively. Likewise, for the same reasoning, it is also held, regarding the second batch of appeals, that even the second proviso to Section 12A(2) is retrospective in nature and the completed assessments in these cases ought not to have been reopened only for non-registration for the relevant assessment years. - Decided in favour of assessee.

(j) **M/S Punjab Educational Society Vs ITO
2017 (12) TMI 989 - ITAT Amritsar**

Grant of registration under Sec. 12AA - first proviso of Sec.12A(2) applicability - retrospective effect – Held that:- The first proviso of Sec. 12A(2) as had been made available on the statute vide the Finance (No. 2) Act. 2014, with effect from 01.10.2014, being a beneficial provision intended to mitigate the hardships in case of genuine charitable institutions, thus, find ourselves to be in agreement with the view taken by the Tribunal in the aforesaid appeals. We thus, are of the considered view that the first proviso of Sec. 12A(2) would be applicable to the case of the present assessee. We therefore set aside the order of the CIT(A) and consequently delete the addition - Decided in favour of assessee.

In the light of above it is submitted that appeals may kindly be allowed.”

4. Learned DR was unable to controvert the contention of the Id. Counsel for the assessee either on law or on facts nor was he able to point out any distinction on facts or law in the judicial decisions cited by the Id. Counsel for the assessee before us in support of the proposition that the assessee was entitled to the benefit of second proviso to section 12A(2) of the Act on account of which since the appeal proceedings in the present cases were pending on the date of grant of registration u/s. 12A of the Act for subsequent assessment years, the benefit of section 11 & 12 of the Act

would apply to the assessment years pending on the date of granting registration also. The Id. DR could also not bring to our notice any contrary decision of High Court and Supreme Court in this regard. In the light of the same, we have no hesitation in holding that in the facts and circumstances of the present cases, which clearly demonstrate that on the date of grant of registration u/s. 12A of the Act to the assessee w.e.f. 01.04.2013 vide order of CIT(Exemption) dated 15.12.2018, the appeal proceedings for all the impugned years before us were pending before the CIT(Appeals) who in turn had passed order in 2024 ,the assessee was entitled to claim exemption of its income u/s. 11 of the Act in view of second proviso to section 12A(2) of the Act as per the various judicial decisions cited by the Id. Counsel for the assessee before us.

Ground No. 6, 7 & 8, raising above arguments by the Id. Counsel, stand allowed. Remaining grounds were not argued before us and therefore are not being adjudicated by us.

5. All the appeals of the assessee stand allowed in above terms.

Order pronounced in the open court on 16.04.2025.

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Dated: 16.04.2025

*aks/-