

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA Nos.410 & 411/PUN/2025**

CASP Council for Arts and Social Practice B 501 Jai Ganesh Co-operative Society Limited, Plot No.31, Sector 20, Kharghar, Raigarh – 410210	<b>Vs.</b>	CIT(Exemption), Pune
<b>PAN: AAICCC3782C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Pankaj C Chag (through virtual)  
Department by : Shri Prashant Gadekar  
Date of hearing : 16-04-2025  
Date of pronouncement : 29-04-2025

**ORDER**

**PER R.K. PANDA, VP :**

ITA No.410/PUN/2025 filed by the assessee is directed against the order dated 03.03.2023 of the Ld. CIT(Exemption), Pune rejecting the application for grant of registration u/s 12A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and cancelling the provisional registration granted earlier u/s 12AB of the Act. ITA No.411/PUN/2025 filed by the assessee is directed against the order dated 04.03.2023 rejecting the application for approval u/s 80G. For the sake of convenience, both these appeals were heard together and are being disposed of by this common order.

2. There is a delay of 654 days in filing of both the appeals before the Tribunal for which the assessee has filed separate condonation applications along with affidavits explaining the reasons for such delay. The Ld. Counsel for the assessee while explaining the reasons for such delay submitted that the assessee had received provisional registration u/s 12A on 31.12.2021 w.e.f. 2022-23 and u/s 80G on 22.02.2022 w.e.f. 22.02.2022. Since there was income from activity, an application was made in Form No.10AB on 23.09.2022 for final registration u/s 12A(1)(ac)(iii) and u/s 80G(5) read with circular No.8/2022 dated 31.03.2022. Since the hearing notices for final registration could not be replied and in absence of any notice in the correct e-mail ID, the Ld. CIT(E) rejected the application for grant of final registration and also cancelled the provisional registration granted earlier u/s 12A and 80G of the Act vide his order dated 03.03.2023 and 04.03.2023 respectively. The order of rejection of final registration and cancellation of provisional registration, in the meantime remained unnoticed till September, 2023 by the director on account of e-mails being delivered in his Spam folder. In September, 2023 Circular No.6 dated 23.05.2023 was opened up to 30.09.2023 to apply for final registration. So, the assessee again applied for final registration in Form No.10AB under the said Circular instead of filing an appeal before the Tribunal. The Ld. CIT(E) rejected the said application on 28.03.2024 and cancellation of the provisional registration was also not restored on technical ground that the said Circular No.6 dated 23.05.2023 is not applicable in the case of the assessee. He submitted that in June, 2024 Circular No.7 dated 25.04.2024 was

opened up to 30.06.2024 to apply for final registration in Form No.10AB under the said circular. Therefore, the assessee filed an application on 30.06.2024 instead of filing an appeal before the Tribunal, which was rejected by the Ld. CIT(E) on 27.12.2024 on the ground that the said Circular No.7 dated 25.04.2024 is not applicable in the case of the assessee trust. The assessee thereafter under the advice from a senior consultant filed the appeal before the Tribunal. Since the assessee was pursuing its case before the Ld. CIT(E) on the basis of CBDT Circulars on the presumption that instead of filing the appeal before the Tribunal, it can get its registration from the Ld. CIT(E) itself, therefore, there was no deliberate delay on the part of the assessee and the delay in filing the appeal is not an intentional one. Relying on various decisions, he submitted that the delay should be condoned and the appeals should be admitted for adjudication.

3. The Ld. DR on the other hand had no serious objection for condonation of delay in filing of the appeals.

4. After considering the contents of the condonation applications filed along with the affidavits and after hearing the Ld. DR, the delay in filing of the appeals is condoned and both the appeals are admitted for adjudication.

**ITA No.410/PUN/2025**

5. Facts of the case, in brief, are that the assessee filed an application in Form No.10AB on 30.09.2022 for registration of the trust under clause (iii) of section 12A(1)(ac) of the Act. With a view to verify the genuineness of the activities of the assessee and 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, a notice was issued through ITBA portal on 20.12.2022 requesting the assessee to upload certain information / clarification. In response to the same, the assessee filed certain details. The CIT(Exemption) while going through those details found certain discrepancies in the submissions filed by the assessee for which he issued another notice to clarify on those issues. However, in absence of any response from the side of the assessee trust, the CIT(Exemption) rejected the application filed by the assessee for grant of registration u/s 12A of the Act and also cancelled the provisional registration granted earlier u/s 12AB of the Act by observing as under:

*“3.1 Thus, the assessee has failed to furnish the details called for under the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 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.*

*3.2 In absence of the compliance to the above requirement, it is not possible to arrive at any conclusion about the genuineness of activities of the assessee and the compliance to the 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.*

*3.3 It is clear from the above that the assessee was given sufficient opportunity to comply, but it has not complied to the same. It seems that the assessee is not having any supporting documents / evidence to submit. The assessee has failed to comply with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 and hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee and has left no alternative but to reject the application.*

*4. In view of the above, the application filed by the assessee is hereby rejected and the provisional registration granted on 31/12/2021 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled.”*

6. Aggrieved with such order of CIT(Exemption), the assessee is in appeal before the Tribunal by raising the following grounds:

*I Grounds of Appeal-*

*The Assessee prefers an appeal against the order dated 03/03/2023 passed by Learned Commissioner of Income Tax (Exemption), Pune on following grounds, each of which is without prejudice to any other*

*1. On the facts and circumstances of the case and in law, the Ld. CIT(Exemption) erred in cancelling provisional registration dated 31.12.2021 granted u/s 12A (1) (ac) (vi)-*

*(i) without finding any SPECIFIED VIOLATION as defined under Explanation to s. 12AB (4) or*

*(ii) without finding any condition for cancellation of provisional registration specified in Provisional Registration Order issued in Form 10AC or*

*(iii) without recording his findings in his cancellation order that (1) how objects of appellant are not genuine or (ii) how activities of appellant are not genuine or not carried out in accordance with its objects or (iii) which requirement of other law as are material for achieving objects of the institution are not complied which are pre-requisite conditions as provided in section 12AB (1) (b) to be satisfied by Ld. CIT (Exemption) before cancelling provisional registration.*

*2. On the facts and circumstances of the case and in law, the Ld CIT(Exemption) erred in cancelling provisional registration dated 31.12.2021 granted u/s 12A (1) (ac) (vi) at the time of considering application made for final registration made in Form 10AB dated 23.09.2022 when he ought to have considered only application for final registration and he ought not to have considered and cancelled provisional registration already lawfully granted without any adverse finding that*

*objects and activities are not genuine and when application for final registration was in Form 10AB and application for provisional registration was in Form 10A and also timing for filing these two applications was different.*

*3. On the facts and circumstances of the case and in law, the Ld. CIT(Exemption) erred in rejecting application u/s 12A made for final registration without explicit definite findings and after recording such findings in writing that objects are not genuine or activities are not carried out in accordance with objects of the institution or without specifying that which requirements of other law for the time being in force as are material for the purpose of achieving its objects are not complied but rejected on the ground that objects or activities could not be verified particularly when Memorandum of Association and Incorporation Certificate u/s B of the Companies Act was available on record to find genuineness of objects and Profit & Loss Account, Balance sheet and Income tax returns and other required details were already available on record with applications filed and also on ITBA e-filing portal to verify and find objects and activities. Explicit, definite findings and non-verification are two different things and registration already granted can be cancelled on explicit, definite findings that objects are not genuine or activities are not carried out in accordance with objects.*

*4. On the facts and circumstances of the case and in law, the Ld CIT (Exemption), erred in rejection of application for final registration in Form 10AB and cancellation of provisional registration without providing proper, complete, reasonable opportunity of being heard while considering application made for final registration made in Form 10AB dated 23.09.2022 which is against principal of natural justice and due to this incomplete opportunity of being heard, hearing notices could not be read resulting in rejection of application for final registration in Form 10AB and cancellation of provisional registration.*

*5. Appellant crave leave to add, alter, amend any grounds of appeal.*

7. Similar grounds have been raised in ITA No.411/PUN/2025 which read as under:

***1 Grounds of Appeal-***

*The Assessee prefers an appeal against the order dated 04/03/2023 passed by Learned Commissioner of Income Tax (Exemption), Pune on following grounds, each of which is without prejudice to any other*

*1. On the facts and circumstances of the case and in law, the Ld. CIT(Exemption) erred in cancelling provisional registration dated 22.02.2022 granted under clause (iv) of first proviso to s. 80G (5)*

*(1) without finding any Specified Violation as defined under Explanation to s. 12AB (4) or*

*(ii) without finding any condition for cancellation of provisional registration specified in Provisional Registration Order issued in Form 10AC or*

*(ii) without recording his findings in his cancellation order that (i) how objects of appellant are not genuine or (ii) how activities of appellant are not genuine or (iii) how conditions specified in clauses (i) to (v) of s. 80G (5) are not fulfilled which are pre-requisite conditions as provided in clause (ii) of second proviso to s. 80G (5) to be satisfied by Ld. CIT (Exemption) before cancelling provisional registration.*

*2. On the facts and circumstances of the case and in law, the Ld. CIT(Exemption) erred in cancelling provisional registration dated 22.02.2022 granted under clause (iv) of first proviso to s. 80G (5) at the time of considering application made for final registration made in Form 10AB dated 30.09.2022 when he ought to have considered only application for final registration and he ought not to have considered and cancelled provisional registration already lawfully granted without any adverse finding that objects and activities are not genuine and without specifying that how conditions specified in clauses (i) to (v) of s. 80G (5) are not fulfilled and particularly when application for final registration was in Form 10AB and application for provisional registration was in Form 10A, each being different form and also timing for filing these two applications was different.*

*3. On the facts and circumstances of the case and in law, the Ld. CIT(Exemption) erred in rejecting application made u/s 80G (5) for final registration without explicit definite findings and also after recording such findings in writing that objects are not genuine or activities are not carried out in accordance with objects of the institution or without specifying that how conditions specified in clauses (1) to (v) of s. 80G (5) are not fulfilled but rejected on the ground that objects or activities could not be verified particularly when Memorandum of Association and Incorporation Certificate u/s 8 of the Companies Act wits available on record to find genuineness of objects and Profit & Loss Account, Balance sheet and income tax returns and other required details were already available on record with applications filed and also on ITBA e-filing portal to verify and find objects and activities. Explicit, definite findings and non-verification are two different things.*

*4. On the facts and circumstances of the case and in law, the Ld. CIT (Exemption), erred in rejection of application for final registration in Form 10AB and cancellation of provisional registration without providing proper, complete, reasonable opportunity of being heard while considering application made for final registration made in Form 10AB dated 30.09.2022 which is against principal of natural justice and due to this incomplete opportunity of being heard, hearing notices could not be read resulting in rejection of application for final registration in Form 10AB and cancellation of provisional registration.*

*5. Appellant crave leave to add, alter, amend any grounds of appeal.*

8. The Ld. Counsel for the assessee submitted that the assessee in response to the first notice has filed the various details. However, the assessee could not respond to the second notice issued by the CIT(Exemption) on account of mistake on the part of the employee of the trust. He accordingly submitted that in the interest of justice, the assessee should be given an opportunity to substantiate its case by filing the requisite details before the Ld. CIT(E). At the same time, he also submitted that the provisional registration granted earlier should not have been cancelled.

9. The Ld. DR on the other hand submitted that he has no objection if the issue is restored to the file of the Ld. CIT(E) for giving an opportunity to the assessee.

10. We have heard the rival arguments made by both the sides, perused the order of the CIT(E) and the paper book filed on behalf of the assessee. It is an admitted fact that due to non-compliance to the notice issued by the Ld CIT(Exemption), he rejected the application filed by the assessee for grant of registration u/s 12A of the Act and also cancelled the provisional registration granted earlier u/s 12AB. Since the application for grant of registration u/s 12A of the Act was rejected and the provisional registration granted earlier was cancelled, he rejected the application for approval u/s 80G of the Act. It is the submission of the Ld. Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate its case by filing the requisite details before the Ld. CIT(E) to his satisfaction. It is

also his submission that the cancellation of provisional registration being not in accordance with law, should be restored immediately. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. CIT(Exemption) with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details to his satisfaction and decide the issue as per fact and law. The assessee is also hereby directed to submit the details as called for by the Ld. CIT(E) on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(Exemption) is at liberty to pass appropriate order as per law. We hold and direct accordingly. So far as the argument of the Ld. Counsel for the assessee to give a direction to Ld. CIT(E) to restore the provisional registration granted earlier is concerned, the same is rejected since the assessee failed to appear before the Ld. CIT(E) and file the requisite details. Since the issue of registration u/s 12A is being restored to the file of Ld. CIT(E), therefore, the issue of restoration of provisional registration is also restored to his file for fresh adjudication. The grounds raised by the assessee in ITA No.410/PUN/2025 are accordingly allowed for statistical purposes.

**ITA No.411/PUN/2025**

11. Since we have restored the issue relating to the grant of registration u/s 12A of the Act to the file of the Ld. CIT(E) for fresh adjudication, therefore, the issue

relating to grant of approval u/s 80G of the Act is also being restored to his file since the same was rejected due to non-availability of registration u/s 12A of the Act. The grounds raised by the assessee in ITA No.411/PUN/2025 are accordingly allowed for statistical purposes.

12. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 29<sup>th</sup> April, 2025.

**Sd/-**  
(ASTHA CHANDRA)  
JUDICIAL MEMBER  
पुणे Pune; दिनांक Dated :29<sup>th</sup> April, 2025  
GCVSR

**Sd/-**  
(R. K. PANDA)  
VICE PRESIDENT

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	16.04.2025		Sr. PS/PS
2	Draft placed before author	16.04.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			