

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 2481/Bang/2024
Assessment Year : 2024-25

M/s. Shri Mallikarjuna Educational Trust, Near Khadi Kendra, Kotumuchagi, Karnataka - 582 119. PAN: AAKTS5157N	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

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ITA No. 46/Bang/2025
Assessment Year : 2024-25

M/s. Shri Mallikarjuna Educational Trust, Near Khadi Kendra, Kotumuchagi, Karnataka - 582 119. PAN: AAKTS5157N	Vs.	The Income Tax Officer (Exemptions), Ward - 1, Hubli.
APPELLANT		RESPONDENT

Assessee by	:	Shri Kashinath Kalamath, Advocate
Revenue by	:	Shri Aseem Sharma, CIT-DR

Date of Hearing	:	09-04-2025
Date of Pronouncement	:	30-04-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These two appeals filed by the assessee challenging the order of the Ld.CIT(E) in which the application filed by the assessee for registration u/s. 12AB of the Act as well as the application for approval u/s. 80G(5) of the Act were rejected and raised the following grounds:

ITA No. 2481/Bang/2024:

<i>Grounds of Appeal</i>		<i>Tax effect relating to each ground of appeal (see note below)</i>
1	<i>The rejection on the ground of non-commencement of activities is contrary to the scheme of Section 12AB. The appellant is entitled to registration even if the activities have not yet commenced, provided the trust is set up genuinely for charitable purposes. In the current case Trust has already started the activities and it is also running an Educational institution i.e Someshwar ITI College.</i>	Rs. 0
2	<i>The CIT (Exemptions) failed to apply the correct legal principles while rejecting the application. Section 12AB does not mandate immediate commencement of activities; rather, it requires genuineness of intent and compliance with laws necessary to achieve the objectives of the trust.</i>	Rs. 0
3	<i>The order passed by the CIT (Exemptions) is contrary to judicial precedents, which hold that registration under Section 12AB cannot be denied merely because the trust has not commenced its activities.</i>	Rs. 0
4	<i>The learned Commissioner of Income Tax (Exemptions) erred in rejecting the application filed by the</i>	Rs. 0

	<i>appellant under Section 12AB of the Income Tax Act, 1961, without adequately considering the submissions and evidence presented by the appellant.</i>	
5	<i>The CIT (Exemptions) failed to appreciate that the appellant's objects are charitable in nature and fall under the scope of Section 2(15) of the Income Tax Act. 1961. The objects of Trust include activities such as running educational institutions, providing vocational training, empowering women and other social welfare activities.</i>	Rs. 0
6	<i>The CIT (Exemptions) erred in concluding that the appellant had not furnished evidence of income applied towards its objects. The appellant had duly submitted documents to substantiate its compliance with the charitable purposes as defined under Section 12AB. The Trust is running a Government Recognised ITI College since many years which the Learned CIT has not considered.</i>	Rs. 0
<i>Total Tax Effect</i>		Rs. 0

ITA No. 46/Bang/2025:

	<i>Grounds of Appeal</i>	<i>Tax effect relating to each ground of appeal (see note below)</i>
1	<i>The learned Commissioner of Income Tax (Exemptions), Bengaluru, erred in rejecting the appellant's applications under Section 80G without properly considering the submissions and evidence provided by the appellant.</i>	Rs. 0
2	<i>The CIT (Exemptions) failed to appreciate that the</i>	Rs. 0

	<i>appellant's trust is established for charitable purposes within the meaning of Section 2(15) of the Income Tax Act, 1961, and its objects align with the requirements of Sections 12AB and 80G.</i>	
3	<i>The rejection of the applications on the grounds of non-commencement of activities is arbitrary and contrary to the law. The Income Tax Act, 1961, does not mandate that a trust or institution must commence its activities before obtaining registration or approval under Sections 12AR or 80G, provided the trust is genuine and established for charitable purposes. In current case Trut has started its activities since past many years.</i>	Rs. 0
4	<i>The CIT (Exemptions) has arbitrarily referred to the previous rejection of the appellant's Section 12AB application, without independently examining the current application under Section 80G.</i>	Rs. 0
<i>Total Tax Effect</i>		Rs. 0

2. Both these appeals are related to the same assessee. We decided to take up both the appeals together and pass a common order for the sake of convenience.

3. The assessee filed both the appeals with a delay of 49 and 69 days respectively and also filed an application to condone the said delay. The assessee also filed a medical certificate to the effect that the Chairman was

under treatment and therefore the appeals could not be filed in time before this Tribunal.

4. We have considered the said submissions and the documents submitted in support of the application and we have satisfied ourselves that the assessee is having valid reasons for not preferring these appeals in time before this Tribunal and we therefore condone the delay of said 49 days in ITA No. 2481/Bang/2024 and 69 days in ITA No. 46/Bang/2025.

5. Now we are proceeding to take up the main appeals.

6. The brief facts of the case are that the assessee is a charitable trust and got their provisional registration on 02/01/2024. Subsequently, the assessee filed an application for granting the permanent registration u/s. 12AB of the Act and also applied for the approval u/s. 80G of the Act. The assessee at the time of filing the applications had submitted all the details through the portal by enclosing a covering letter on 04/06/2024. The Ld.CIT(E) after getting the report from the jurisdictional AO, had observed that the assessee had not furnished the evidences to show that the income is applied for the objects stated by the assessee and rejected the said application filed by the assessee. As against the said rejection orders for registration u/s. 12AB as well as approval u/s. 80G, the assessee is in appeal before this Tribunal.

7. At the time of hearing, the Ld.AR submitted a paper book in which the assessee enclosed the various documents to show that the assessee trust is carrying on the charitable activities and also the assessee in pursuant to the objects, had established an ITI institute. The Ld.AR further submitted that the financial statements for the F.Ys. 2020-21, 2021-22, 2022-23 and 2023-24 would establish the fact that the assessee is in the process of applying the incomes to achieve the objects mentioned in the trust deed. The Ld.AR further submitted that the Ld.CIT(E) had not considered the said facts and

had rejected the application unilaterally that too without hearing the assessee and therefore the order of the Ld.CIT(E) is liable to be set aside.

8. The Ld.DR relied on the order of the Ld.CIT(E) and prayed to dismiss the appeals.

9. We have heard the arguments of both sides and perused the materials available on record.

10. We have also perused the documents filed by the assessee in support of their case that the assessee is a charitable institution and carrying on the activities of running educational institutions, providing vocational training, empowering women and other social welfare activities. The documents filed by the assessee would establish the fact that the assessee has commenced their charitable activities by establishing the Government recognised ITI college. Further, there is no dispute with regard to the charitable activities carried out by the assessee. The only defect pointed out by the Ld.CIT(E) is that the assessee had not applied its income to achieve the above objects. On going through the reply filed by the assessee on 19/08/2024 and the acknowledgement available for filing the various documents on 04/06/2024, we are of the view that the Ld.CIT(E) had not considered the facts properly. The Ld.CIT(E) had given a finding that the assessee has not applied the income to the objects of the trust. This finding is also not correct when we go through the financial statements of the assessee as well as the fact that the assessee is running a Government recognised ITI. Further before giving a finding, the Ld.CIT(E) had not communicated his mind to the assessee as well as not granting a personal hearing so that the assessee might have explained the facts in detail. In such circumstances, we are inclined to set aside both the orders of the Ld.CIT(E) and direct the Ld.CIT(E) to decide the issue afresh after considering the various documents filed by the assessee, after hearing the assessee.

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

Order pronounced in the open court on 30th April, 2025.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 30th April, 2025.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore