

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES,"A" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 307 & 306/JPR/2025
u/s 12AB and 80G of the Act

Mohan Lal Krishan Avtar Rawat Memorial Charitable Trust (BOBAS WALE) Near Biyani Girls College Vidhyadhar Nagar, Jaipur 302 030	बनाम Vs.	The CIT-Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAITM 7530 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri R.S. Poonia, CA
राजस्व की ओरसे / Revenue by: Shri Rajesh Ojha, CIT-DR

सुनवाई की तारीख / Date of Hearing : 28/04/2025
उदघोषणा की तारीख / Date of Pronouncement: 05 /05/2025

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

These are two appeals filed by the assessee against two different orders of the Ld.CIT (Exemption), Jaipur both dated 28-12-2024 passed under section 12AB and 80G of the Income Tax Act, 1961 respectively. The grounds of appeal raised by the assessee in both the appeals are as under:-

ITA No. 307/JPR/2025 U/s 12AB of I.T. Act, 1961

“1. That the order passed by Id. CIT(E), Jaipur by rejecting application u/s 12AB(1)(b) of the I.T. Act, 1961 is wrong, unwarranted and bad in law. Kindly direct to register the same.”

ITA No. 306/JPR/2025 U/s 80G of I.T. Act, 1961

“That under the facts and in the circumstances of the case, the Id. CIT(E), Jaipur rejected the application u/s 80G(5)(iii) of the I.T. Act, 1961 which is wrong, unwarranted and bad in law. Kindly direct to register the same.”

2.1 Apropos to the ground so raised by the assessee in ITA No. 307/JPR/2025, the Id. CIT(E) rejected the assessee’s claim of registration u/s 12AB of the Act by observing as under:-

“In view of the above, it is clear that assessee has made only book entry for the entire transactions. Accordingly, violated provisions of section 13(1)(c) of the I.T. Act, 1961, and also specific violation of clause (a) below Explanation 12AB(4). Further act of money siphoning by trustees also makes it clear that trust is not working genuinely and meant for siphoning of public donation, thus result in non-genuineness activity.

1. On perusal of Chana Dal purchase bill, it is seen that huge quantity of dal purchase of 25020 kg is only in one day i.e. 30.03.2024, which is seems not justifiable. The assessee has not furnished details from where such distribution has been

MOHAN LAL KRISHAN AVTAR RAWAT MEMORIAL CHARITABLE TRUST (BOBAS WALE) VS CIT (E), JAIPUR

made and not proper details to proving genuineness of the trust.

2. Details of final accounts for the period of 01.04.2024 to till date (provisional) not furnished.

3. Details of bank statements alongwith copy of bank transaction of above Rs. 20000/- not furnished.

4. No ledger accounts, payment mode, cash book/bank books of all expenses and receipts.

5. No details of donation/corpus donation/charity receipts alongwith purpose of receipts & from whom such has received since inceptions to till date.

6. No details of activities/beneficiaries alongwith ledger accounts, photos of beneficiaries/activities, proof of activities

7. No photos, newspaper cutting, social media handle, if any, not furnished.

Hence from the above it is clear that the activities are not verifiable and it could not be determined whether the applicant is genuinely carrying out charitable activity and it's cannot be ascertained that activities are as per objects. Therefore, the applicant claim of registration u/s 12AB is also liable to be rejected on ground of not proving its genuineness of activity.

03. In view of above discussion applicant's application for registration u/s 12AB is liable to be rejected and thus being rejected on following grounds

Non-Genuineness of activities.”

2.1 Apropos to the ground so raised by the assessee in ITA No. 306/JPR/2025, the Id. CIT(E) rejected the assessee's claim of registration u/s 80G of the Act by observing as under:-

"02. Approval u/s 80G cannot be granted without registration u/s 12AB:-

2.1. As per rule 11AA of the Income Tax Rule, 1962, the registration u/s 12A/12AB or notification u/s 10(23C) is a precondition for granting approval u/s 80G of the I.T. Act, 1961. Vide this office order No.ITBA/EXM/F/EXM43/2024-25/1071655448(1) dated 28.12.2024. Also during the present proceedings, the applicant has also failed to furnish any replies, thus the genuineness of activities and all the above issues remains same. Thus, genuineness of activities and all the above issues remains same. Thus the claim of the applicant u/s 80G is liable to be rejected on this issue on following grounds:-

- Non-Genuineness of activities.

In view of above discussion, the application in form No. 10AB seeking exemption u/s 80G is liable to be rejected.

03. In view of above discussion assessee's claim of approval u/s 80G is liable to be rejected and thus being rejected on following grounds-

Approval u/s 80G cannot be granted without registration u/s 12AB."

2.3 During the course of hearing, the Id. AR of the assessee in both the appeals mainly submitted that the assessee was not provided adequate opportunity of being heard by the Id. CIT(E) and thus both the orders should be quashed being against the principles of natural justice. Further, it is submitted by the Id. AR of the assessee that he has submitted all the required documents as desired by the Id. CIT(E) but the Id. CIT(E) without verifying the details, documents, evidences, in a routine manner rejected the approval of registration of trust u/s 12AB of the Act. The Id.AR of the assessee also submitted that the assessee trust is a charitable Trust and it has also got registration under Rajasthan Public Trust Act, 1959 for which the Id.AR of the assessee has submitted the copy of registration before the Bench. Conclusively, he prayed that he should be given one more chance to contest the case before the Id. CIT(E) to resolve the issue and also to apprise him about the documents already produced by the Trust for registration u/s 12AB of the Act.

2.4. Per contra, the Id. DR relied on the order of the Id. CIT(E).

2.5 After hearing both parties and perusing the materials available on record, we noticed that an application for registration u/s 12AB of the Act was rejected by the Id CIT(E) on following grounds:-

* Non - Genuineness of activities

In the course of hearing of the case, it is requested by the Id.AR of the assessee that he had complied with the instructions of the Id. CIT(E) and supplied all the documents demanded by the Id. CIT(E) but it appears that the same has not been properly examined by the Id CIT(E). He submitted that from the records it can be seen the genuineness of the activities of the trust and also its objects. He prayed that one more chance should be given to the assessee trust to re-submit or argue the case before the Id. CIT(E) so that he will be in a position reappraise the case to the Id. CIT(A). The Bench adopts the lenient view and feels that the assessee should be given one more opportunity to advance the documents before the Id. CIT(E) as to registration of the trust u/s 12AB of the Act. Hence, in

view of all the facts and circumstances of the case, the matter is restored to the file of the Id CIT(E) for afresh adjudication by providing adequate opportunity of being heard and the assessee is also required to submit the documents as demanded by the Id. CIT(E) with regard to registration of the Trust u/s 12AB of the Act. Thus this appeal of the assessee is allowed for statistical purposes.

2.6 Since we have restored the appeal of the assessee with regard to the registration u/s 12AB of the Act to the file of the Id. CIT(E) for afresh adjudication, therefore, the outcome of appeal of the assessee u/s 80G of the Act is consequential in nature.

2.7 Before parting, we may make it clear that our decision to restore the matter back (supra) to the file of the Id. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

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

Order pronounced in the open court on 05 /05/2025.

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 05 /05 /2025

*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Mohan Lal Krishan Avtar Rawat Memorial Charitable Trust (BOBAS WALE)
2. प्रत्यर्थी / The Respondent- The CIT (E).
3. आयकरआयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
5. गार्डफाईल / Guard File {ITA No. 307 & 306/JPR/2025}

आदेशानुसार / By order

सहायकपंजीकार / Asst. Registrar