

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
(By Virtual Mode)**

**BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA Nos.56 & 57/JAB/2024
A.Y. N.A.

Katni Blood Donor And Welfare Society, House No.585 Jagmohan Das Ward, Nai Basti, Katni, M.P.	vs.	Commissioner of Income Tax (Exemption), Bhopal
PAN:AAGAK2062B		
(Appellant)		(Respondent)

Assessee by:	Sh. Sapan Usrethe, Advocate
Revenue by:	Sh. Shrawan Kumar Meena, DR
Date of hearing:	19.05.2025
Date of pronouncement:	21.05.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

These appeals have been filed by the assessee against the orders of the Id. CIT(Exemption), Bhopal rejecting the application of the assessee in Form No.10AB for grant of registration under section 12AB and 80G(5) and also cancelling the provisional registration / approval under section 12AB in Form No. 10AC issued on 30.11.2022 and the provisional registration / approval under section 80G(5) in Form 10AC dated 30.11.2022 which had been granted by the CPC. The assessee is aggrieved at this order by the Id. CIT(Exemption) and has accordingly filed these appeals. The grounds of appeal in ITA No.56/JAB/2024 are as under:-

"1. On the facts and circumstances of the case the learned Commissioner of Income tax (Exemption) was not justified in rejecting the application in Form 10AC for grant of registration u/s 80G(5) of the Act without properly appreciating the facts of the case.

2. *On the facts and circumstances of the case the learned Commissioner of Income tax (Exemption) was not justified in rejecting the application in Form 10AB for grant of registration u/s 80G(5) of the Act without appreciating that appellant was prevented with reasonable cause in not filing the reply to the show cause notice issued on 05.02.2024 and thus rejection without giving proper opportunity is not justified.*

3. *On the facts and in the circumstances of the case, the order of the Id. CIT (Exemption) rejecting the registration under sec. 80G(5) of the Income-tax Act, 1961 dated 22.02.2024 on the ground of delay in filing the form 10AC without appreciating that "within six months of commencement of its activities" has to be interpreted that it applies for those trusts/institutions which have not started charitable activities at the time of obtaining Provisional registration, and not for those trust/institutions which have already started charitable activities before obtaining Provisional Registration.*

4. *On the facts and in the circumstances of the case, the Id. CIT (Exemption) erred in law and on facts in rejecting the application in Form 10AC for registration/approval under sec. 80G(5) and cancelling the registration granted by the CPC earlier in Form 10AC vide URN No. AAGAK2062BF20221 dated 30.11.2022 as per the second proviso of section 80G(5) of the Act.*

5. *The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal."*

2. The grounds of appeal in ITA No.57/JAB/2024 are as under:-

"1. On the facts and circumstances of the case the learned Commissioner of Income tax (Exemption) was not justified in rejecting the application in Form 10AB for grant of registration u/s 12AB of the Act without properly appreciating the facts of the case.

2. On the facts and circumstances of the case the learned Commissioner of Income tax (Exemption) was not justified in rejecting the application in Form 10AB for grant of registration u/s 12AB of the Act by observing that in response to notice dated 05.02.2024, appellant was prevented with reasonable cause in not filing the reply and hence rejection without giving proper opportunity is not justified and even otherwise appellant have already produced the record of charitable activities during the course of proceeding and detailed reply along with evidence was filed on 10.01.24.

3. On the facts and in the circumstances of the case, the order of the Id. CIT(Exemption) rejecting the registration under sec. 12AB of the Income-tax Act, 1961 dated 22.02.2024 is unjustified and against the principles of natural justice.

4. The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal."

3. The facts of the case are, that the assessee had applied in Form 10AB for registration under section 12AB of the Act, under the new provisions of the Income Tax Act, 1961. The Id. CIT(Exemption) records that he issued a number of letters to the assessee calling for various documents and details so as to enable him to process the said application and verify the objects and activities of the assessee. However, the assessee only replied to one of the four notices issued by him and the reply submitted was also an incomplete reply. In view of this incomplete reply, a further notice was issued on 5.02.2024 but until the passing of the order, the assessee had not made compliance to the same. The Id. CIT(Exemption) held that provisional registration under section 80G(5) was granted to the assessee on 30.11.2022 and the assessee was required to apply in Form 10AB under Clause (iii) of first proviso to section 80G(5) of the Act within six months from the start of activities. However, the assessee had made the application in Form 10AB on 30.09.2023, which was beyond the time limit prescribed by the Act. The CBDT had considered the matter of delay through CBDT Circular No.6/2023 dated 24.05.2023 and extended the date of filing in such cases as per para 5(ii) and given relaxation only for applications filed under section 12A(1)(ac)(iii) and clause (iii) of first proviso to section 10(23C) of the Act. No such relaxation had been granted to applications which had been filed under clause (iii) of the first proviso to section 80G(5). Accordingly, a show cause notice was issued to the assessee on 5.02.2024 and as the assessee had not submitted any reply on the above point, therefore, the Id. CIT(Exemption) rejected the application of the assessee and cancelled the provisional registration / approval given under section 12AB and section 80G(5) of the Act by the CPC.

4. The assessee is aggrieved by these orders passed by the Id. CIT(Exemption). It was submitted that the assessee was prevented by reasonable cause from filing the reply and rejection of the assessee's application without giving proper opportunity was not justified. It was submitted that the assessee had already produced the record

of charitable activities during the case of proceedings and detailed reply alongwith evidence that was filed on 10.01.2024. Accordingly, it was pointed out that the Id. CIT(A) was unjustified in rejecting the application for registration under section 12AB and even more unjustified in cancelling the provisional registration granted by the CPC. With regard to the invoking of delay in filing the application for registration under section 80G(5) of the Income Tax Act, 1961, it was submitted that the Id. CIT(Exemption) had failed to appreciate the fact that, “within six months of commencement of its activities” had to be applied only to those trusts and institutions which had not started charitable activities at the time of obtaining provisional registration, and not for those trusts and institutions who had already started charitable activities before obtaining provisional registration. In the circumstances, the Id. CIT(Exemption) was not justified in rejecting the application in Form 10AC for registration / approval under section 80G(5) and also unjustified in cancelling the provisional registration.

5. On the other hand, Sh. Shrawan Kumar Meena, Sr. DR pointed out that since the assessee had not responded to the notices of the Id. CIT(Exemption) and not furnished the information before him, the Id. CIT(Exemption) had no option but to reject the application and cancel the provisional registration. He also pointed out that the application of the assessee for approval under section 80G(5) was beyond the period six months.

6. We have duly considered the facts and circumstances of the case and ongoing through clause (iii) of the proviso to the section, we find that where the institution or fund has been provisionally approved, the application to the Pr. Commissioner or Commissioner has to be made at least six months prior to the expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier. It is quite clear that from the same that the condition of making the application within six months from the commencement of activities, relate to

trusts who are yet to commence their activities while in the cases of trusts which are already functional, the application has to be made at least six months prior to the expiry of the period of the provisional approval. Since in the present case, the assessee society was already functioning as on the date of provisional approval, it had to make its application for registration to the Id. CIT(Exemption) at least six months prior to the expiry of period of provisional approval. The order of the Id. CIT(Exemption) has not considered that the society was not a new society but already functional and therefore, the rejection of the application on this ground is held to be unwarranted. Ground no. 3 of ITA No. 56/JAB/2024 is accordingly allowed. It is also seen that the Id. CIT(Exemption) has rejected the application for registration / registration under section 12AB and approval under section 80G(5), in view of the failure of the assessee to submit proper replies. The assessee has submitted that it was unable to make compliance at that time due to certain difficulties but was willing to make compliance if the matter was restored to the Id. CIT(Exemption). Accordingly, in the interest of justice, we deem it fit to restore both these matters to the file of the Id. CIT(Exemption) so that the assessee may file replies to all the queries raised by him and so that the Id. CIT(Exemption) may take a final decision in accordance with law on the merits of the case, after considering these replies. The remaining grounds in ITA No.56/JAB/2024 and all grounds in ITA No.57/JAB/2024 are allowed for statistical purposes.

7. In the result, ITA No.56/JAB/2024 is partly allowed while ITA No.57/JAB/2024 is allowed for statistical purposes.

Order pronounced on 21.05.2025 in the open Court.

Sd/-
[KUL BHARAT]
VICE PRESIDENT
DATED: 21/05/2025
Sh

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

*ITA Nos.56 & 57/JAB/2024
A.Y. NA.
Katni Blood Donor And Welfare Society*

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

By order
Sr. P.S.