

**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.50 & 51/JAB/2024  
A.Y. N.A.

Kamdhenu Shiksha Sewa Samiti, H No. 212 Near Kailwara Phatak, Indira Gandhi Ward, Katni, Madhya Pradesh	vs.	Commissioner of Income Tax (Exemption), Bhopal
<b>PAN:AAGAK3419Q</b>		
(Appellant)		(Respondent)

Assessee by:	Sh. Sapan Usrethe, Advocate
Revenue by:	Sh. Alok Bhura, Sr. DR
Date of hearing:	19.05.2025
Date of pronouncement:	22.05.2025

**ORDER**

**PER NIKHIL CHOUDHARY, A.M.**

These two 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 approval 80G(5) The grounds of appeal in ITA No.50/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 19.01.2024, assessee has filed adjournment letter on 22.01.2024 and also submitted partial reply without any supporting details whereas all the requisite documents was duly submitted on 08.01.2024 and on 23.01.2024 reply on all the*

*three points was given and observation that appellant sought adjournment is also not correct and hence rejection is not as per law.*

*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 09.02.2024 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.”*

2. The grounds of appeal in ITA No.51/JAB/2024 are as under:-

*“1. On 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 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 have duly filed reply on 08.02.2024 in response to letter dated 25.01.2024 and 19.01.2024 and it appears that order was passed without considering the reply dated 08.02.2024 which is not as per law.*

*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 09.02.2024 is unjustified and against the principles of natural justice.*

*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 the application in Form 10AB for registration/approval under sec. 80G(5) and cancelling the registration granted by the CPC earlier in Form 10AC vide URN No.AACAk3419QF20221 dated 07.04.2022 as per the second proviso of section 80G(5) of the Act.”*

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 consequent to the application, opportunity letters were issued to the assessee and various documents and details were called for to process the said application and examine the activities of the assessee. However, the assessee submitted an incomplete reply. It was further recorded that subsequent to this, a notice was issued on 19.01.2024 to submit certain further information but the assessee filed an adjournment letter and then submitted

a partial reply without any supporting details. The notice for adjournment was considered and the assessee was granted further time to submit the information but the assessee did not submit the necessary information. Therefore, the Id. CIT(Exemption) rejected the application of the assessee in Form 10AB for grant of registration under section 12AB of the Act. On the issue of section 80G(5), it was observed by the Id. CIT(Exemption) that the provisional registration had been granted to the assessee on 7.04.2022 and the assessee was accordingly required to apply in Form 10AB under clause (iii) of the first proviso to section 80G(5) of the Act, within six months from the starts of its activities. This time limit had been extended by the CBDT up till 30.09.2022 vide Circular No. 8/2022 dated 31.03.2022. Since, in the present case, the assessee had already commenced activities before getting provisional certificate. The assessee was required to apply within six months from the date of the provisional certificate as mentioned in clause (iii). However, the assessee had applied in Form 10AB on 30.09.2023 which was beyond the time limit prescribed by the Act and CBDT Circular No. 8/2022 dated 31.03.2022. It was further pointed out that the CBDT had made provisions for condoning delay of applications filed under section 12A(1)(ac)(iii) and clause (iii) of first proviso to section 10(23C) of the Act but no such relaxation had been granted to applications which have been filed under clause (iii) of the first proviso to section 80G(5) of the Act. Accordingly, a show cause notice was issued to the assessee but the assessee had not submitted any response and therefore, the application for grant of registration under section 80G(5) was also rejected and the provisional approval dated 7.04.2022 was also cancelled.

4. The assessee is aggrieved at these orders of the Id. CIT(Exemption) and has accordingly filed these appeals. Sh. Sapan Usrethe, Advocate appearing on behalf of the assessee pointed out that the Id. CIT(Exemption) was unjustified in stating that the assessee had filed adjournment letter on 22.01.2024 and submitted partial reply without any supporting details, whereas all the requisite documents had been duly

submitted on 8.01.2024 and on 23.01.2024 a reply had been furnished to the Id. CIT(Exemption) on all the three points raised by him. Therefore, his observation that the assessee had sought an adjournment was not correct and the rejection was not as per law. It was further submitted that the Id. CIT(Exemption) in his order had not discussed the details furnished by the assessee and therefore, the matter may kindly be restored back to his file for a decision on merits after considering the submissions of the assessee. On the issue of approval under section 80G(5), it was submitted that the Id. CIT(Exemption) had himself noted that the assessee was already functioning society on the date of provisional registration. It was submitted that the Id. CIT(Exemption) had completely misinterpreted the provisions of section 80G(5) and failed to observe that the assessee was allowed to apply for / make its application for grant of approval under section 80G(5) at least six months prior to the expiry of the period of provisional approval. Accordingly, it was prayed that the decision of the Id. CIT(Exemption) was not in accordance with law and therefore, the matter may be restored back to him for fresh consideration.

5. On the other hand, Sh. Alok Bhura, Id. Sr. DR pointed out that the assessee had not made compliance before the Id. CIT(Exemption) and also not furnished its application in time and therefore, the Id. CIT(Exemption) was justified in rejecting it.

6. We have duly considered the facts and circumstances of the case. The assessee had submitted that he has made already made all compliances before the Id. CIT(Exemption) which the Id. CIT(Exemption) has neither considered nor rebutted in his order. In the circumstances, we feel it is in the interest of justice to restore the issue of registration back to the file of the Id. CIT(Exemption) so that the Id. CIT(Exemption) may consider the evidence submitted by the Id. AO and thereafter pass a fresh order in accordance with law. On the issue of rejection of approval under section 80G(5), it is observed that as per condition of clause (iii) of first proviso to section 80G, the application may be filed before six months of the expiry of

provisional registration granted to the assessee. Since the ld. CIT(Exemption's) order does not record that this condition has been breached, he does not appear to be justified in refusing the approval, because the conditions stated by him is not mentioned in the Act. Accordingly, we deem it fit to restore this matter also back to the file of the ld. CIT(Exemption) so that the application of the assessee may be considered on its merits and a decision rendered in accordance with law.

7. In the result, both these appeals are allowed for statistical purposes.

Order pronounced on 22.05.2025 in the open Court.

**Sd/-**  
**[KUL BHARAT]**  
**VICE PRESIDENT**  
DATED: 22/05/2025

<sup>Sh</sup>  
Copy forwarded to:

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

**Sd/-**  
**[NIKHIL CHOUDHARY]**  
**ACCOUNTANT MEMBER**

By order  
Sr. P.S.