

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No.486/JODH/2024 & ITA 487/JODH./2024

Maa Bharti Jan Kalyan Trust C/o CA R.S. Poonia, D-82, B, Siwad Area, Krishna Marg, Bapu Nagar, Rajasthan-302 015 PAN : AACTM7554P	vs	ITO Ward Exemption, Udaipur Income-tax Office, Central Area, Udaipur, Rajasthan-313 001
APPELLANT		RESPONDENT

Assessee by : Shri R.S. Poonia,C.A.
Respondent by : Shri Ajey Malik CIT-DR

Date of hearing : 29/05/2025
Date of pronouncement : 30/05/2025

ORDER

Per Anikesh Banerjee) JM):

These two appeals of the assessee were filed against the order of the Learned Commissioner of Income-tax Exemption, Jaipur [in short, 'Ld.CIT(E)] passed under section 12A and 80G(5) of the Income Tax Act, 1961 (in short, 'the Act'), date of order 28/05/2024.

2. We heard the rival submissions and considered the documents available on the record. The assessee is a trust and organizing the blood donations in different places and the assessee applied for registration under section 12AB(1)(b) and 80G

of the Act before the Ld.CIT(E). The Ld.CIT(E) rejected the application filed by the assessee under section 12A(1)(ac)(iii) of the Act on the ground that the assessee violated the provisions of section 12AB(4) and section 13(1)(c) read with section 13(3) of the Act. There is no ambiguity and the Ld.CIT(E) also satisfied about the genuineness of the activity as per the provisions of section 12AB(1)(b)(i)(B) of the Act. The assessee paid the salary of Rs.6 lakhs to one Mr. Shubham Vijay, who is the son of the trustee. The Ld.AR stated that Shri Shubham is managing officer, who is handling the legal and accounts of the trust. The Ld.AR further stated that normally, the Chartered Accountants are having salary of Rs.8.91 lakhs per annum as certified by the Institute of Chartered Accountants of India (ICAI) and accordingly, Mr. Shubham Vijay received the salary of Rs.6 lakhs p.a. which is not excessive as compared to the market trend. The Ld.AR argued that the registration sought to be cancelled on the basis of violation of section 13(1)(c) as at the time of registration, the revenue is only empowered to verify the genuineness of activities of the trust. He further argued that the assessee has not given benefit to specified person in law by section 13(1)(c) and 13(c) of the Act as related person was managing person of the trust. Further it is submitted that as per release of ICAI, the average salary of the fresh Chartered Accountant was rs.8.91 lakhs per annum in the year 2020. So, as per the calculation on average salary of 2023, the Ld.AR stated that it will be around Rs.12 lakhs, p.a. Hence, the related person Mr. Shubham Vijay, son of the trustee, who was paid salary of Rs.12 lakhs during FY 2022-23 as he provides managing service of two concerns, Apna Blood Bank and MBI Public School, paid Rs.6 lakhs each. If the benefit passed to the related person, then the same cannot be covered under clause (a) of Explanation of specified violation under section 12AB(4) of the Act, only the

excess portion can be disallowed as per section 13(1)(c) read with section 13(2)(c) of the Act.

3. The Ld.DR, on the contrary argued and placed that during registration, the ITR copy of Mr. Shubham Vijay was produced but Mr. Shubham Vijay was not produced personally. So the investigation was incomplete during proceedings for registration of the assessee. He further argued and fully relied on the order of the Ld.CIT(E).

4. In our considered view we find that the rejection of application for contravening provisions of section 13(1)(c) or 12A(4) is not a reason for cancellation of registration under section 12A of the Act. It is a fact that Ld.CIT(E) has not doubted the genuineness of activities. Only benefit to specified person is the sole ground for rejection. On the other hand, the assessee remained uncomplished before the Ld.CIT(E) for completion of the verification during the hearing. We find that the matter should be remanded to the file of the Ld.CIT(E) for verification and passing the order by considering the observations of the bench, above. Needless to say, the assessee should get a fair opportunity of being heard in the set aside proceedings before the Ld.CIT(E). On the other hand, the assessee should be diligent and co-operative in the denovo verification.

5. The appeal of the assessee bearing **ITA No.480/Jodh/2024** is allowed for statistical purpose.

6. Related to ITA 481/Mum/2024, this appeal is connected with the registration under section 12A of the Act, so this matter is also remanded to the file of the Ld.CIT(E) for consideration afresh.

7. In the result, both the appeals bearing **ITA Nos 480 & 481/Mum/2024** are allowed for statistical purpose.

Order pronounced in the open court on 30th day of May, 2025.

Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated 30/05/2025
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., जोधपुर/DR, ITAT,
JODHPUR
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, JODHPUR