

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ‘ DB-B ‘ Bench, Hyderabad**

**Before Shri Vijay Pal Rao, Vice-President**  
**A N D**  
**Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA Nos.167 & 168/Hyd/2025**  
(निर्धारण वर्ष / Assessment Year: 2025-26)

Ujwal Foundation Hyderabad PAN:AABTU1833C (Appellant)	Vs.	CIT (Exemption) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri H Srinivasulu, Advocate	
राजस्व द्वारा / Revenue by:	Shri Narender Kumar Naik, CIT(DR)	
सुनवाई की तारीख / Date of hearing:	04/06/2025	
घोषणा की तारीख / Pronouncement:	06/06/2025	

**आदेश/ORDER**

**Per Vijay Pal Rao, Vice President**

These two appeals filed by the assessee are directed against the two separate orders of the learned CIT (E), Hyderabad dated 11/12/2024 and 9/12/2024 respectively whereby the application of the assessee for grant of approval u/s 80G and registration u/s 12AB of the I.T. Act, 1961 were rejected. In the appeal against the rejection of application for registration u/s 12AB in ITA No.168/Hyd/2025, the assessee has raised the following grounds of appeal:

1. Ld. CIT (**Exemptions**); Hyderabad erred in denial of Registration to the charitable Trust U/s 12AB despite fulfilling all the conditions for grant of Registration, Vide CIT(E) order dated 9/12/2024.
2. Ld. CIT (**Exemptions**), Hyderabad erred in observing that no substantial activities were carried out by the charitable Trust.
3. Ld. CIT (**Exemptions**), Hyderabad erred in observing that the appellant violated the provisions of Sections 11 and 12 without any evidence on record.
4. Ld. CIT (**Exemptions**), Hyderabad failed to appreciate that the appellant furnished all the details and information truthfully.
5. Ld. CIT (**Exemptions**), Hyderabad failed to appreciate the objects of the Trust and its genuine activities.
6. Ld. CIT (**Exemptions**), Hyderabad failed to examine the documents and evidence furnished as directed by him
7. Ld. CIT (**Exemptions**), Hyderabad failed to appreciate that all the objects of the Trust are charitable in nature.
8. Ld. CIT (**Exemptions**), Hyderabad failed to appreciate that the provisional registration U/s 12AB was granted for the three years after verification of the objects of the Trust.
9. Ld. CIT (**Exemptions**), Hyderabad failed to appreciate that the assessee collected the donation and in the process of implementation of the objects of the Trust.
10. The appellant craves leave to add, amend and/or after the above ground of appeal, at any time before or at the time of hearing of the appeal.

2. The assessee foundation was established vide Trust Deed dated 11/12/2021. The main objects of the assessee is to provide education, medical relief to the poor etc. The assessee applied for provisional registration u/s 12A of the Act in Form-10A on 8/1/2022 which was granted vide provisional registration

certificate dated 15/01/2022. Thereafter, the assessee filed application in Form 10AB seeking registration u/s 12AB of the Act on 7/1/2024 within the extended time limit by the CBDT. The learned CIT (Exemption), vide the impugned order dated 9/12/2024 rejected the application.

3. The learned AR of the assessee has submitted that the objects of the assessee trust are charitable in nature and also not disputed by the learned CIT (Exemption). However, the registration was denied on the ground that no substantial charitable activities are being carried out by the assessee trust which is in violation of the provisions of section 11 and 12A of the I.T. Act, 1961. The learned AR has submitted that violation of section 11 and 12 comes into picture only after the registration u/s 12AB is granted. The learned AR has further submitted that the assessee satisfied the conditions as provided in section 12AB of the I.T. Act, 1961 to show that the objects of the trust are charitable in nature and since the assessee was yet to commence its activities, therefore, the question of non-compliance of the provisions u/s 11 and 12 of the I.T. Act, 1961 does not arise. The learned AR has referred to the income and expenditure account and submitted that when no income during the year under consideration, then there is no question of violation for non-application of income for charitable purpose. He has further submitted that the assessee trust has incurred the expenditure on administration of the trust being payment to the auditors and other administrative expenses are itself is an expenditure

incurred for charitable purpose as held by the Varanasi Bench of this Tribunal in case of Math Gadwaghat Trust vs. CIT (E) reported in (2024) 119 ITR (Trib) 134. He has also relied upon the judgement of the Hon'ble Supreme Court in the case of Ananda Social and Educational Trust reported in 426 ITR 340(S.C) and submitted that the Hon'ble Supreme Court has held that the term activity under the provisions of section 12AA includes proposed activities. Thus, the Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposes to carry on are genuine, in the sense that they are in line with the objects of the Trust. Thus, the learned AR has contended that the rejection of application for registration u/s 12AB without considering the proposed activities of the assessee trust is not justified. The learned AR has submitted that, in the subsequent year, the assessee has carried out the charitable activities and therefore, the assessee is entitled for registration u/s 12AB of the I.T. Act, 1961.

4. On the other hand, the learned DR has submitted that the assessee despite lapse of a considerable time has not carried out any activities in pursuance of their objects, therefore, the learned CIT (Exemption) has rightly rejected the application. He has relied upon the impugned order of the learned CIT (Exemption).

5. We have considered the rival contentions as well as the relevant material available on record. The learned CIT (Exemption) has rejected the application of the assessee for registration u/s 12AB of the Act giving the reasons in para 3 of the impugned order as under:

3. The assessee submitted his response to the above notice and on perusal of the submissions of the assessee, it is observed that no substantial charitable activities are being carried out by the assessee trust, which is in violation of provisions of section 11 and 12 of the IT Act, 1961. In light of the above facts, the present application in form 10AB for registration u/s 12AB is herewith **rejected**.

6. Thus, it is clear from the above findings of the learned CIT(E) that he has not disputed the charitable nature of the objects of the assessee trust, but the registration was denied only on the ground that no substantial charitable activities are being carried out by the assessee trust. It is pertinent to note that if the assessee trust has not started/commenced its charitable activities, then the proposed activities are to be considered for satisfying itself by the competent authority while granting registration u/s 12AB of the Act. The Hon'ble Supreme Court in the case of Ananda Social & Education Trust vs. CIT (Supra) has held in para 11 to 13 as under:

*“11. We have given our anxious consideration to the above submissions made by Ms. Aishwarya Bhati, learned Senior Counsel appearing for the appellant - Director of Income-tax and find that it is not possible to agree with the same. The purpose of section 12AA of the Act is to enable registration only of such trust or institution whose objects and activities are genuine. In other words, the Commissioner is bound to satisfy himself that the object of the Trust are genuine and that its activities are in furtherance of the objects of the Trust, that is equally genuine.*”

*12. Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision includes 'proposed activities'. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust.*

*13. We therefore find that the view of the Delhi High Court in the impugned judgment is correct and liable to be upheld.”*

7. If the activities are yet to be commenced, then it cannot be the case of the activities are not genuine. If the proposed activities of the assessee trust are to achieve its objects, which are accepted as charitable in nature, then non-commencement of the activities at the time of filing the application or at the time of passing the order for grant of registration u/s 12AB cannot be a sole reason for denial of registration without considering the proposed activities of the assessee. There is no dispute that the assessee has not carried out any charitable activities till the application was filed and the impugned order was passed. However, the learned AR of the assessee has stated that in the subsequent year, the assessee trust has carried out the activities. We further note that the learned CIT (E) has dismissed the application summarily without

even discussing anything which is held to be non-genuineness of the activities of the assessee. Only in the case where the assessee has already started or carried out its activities which were found to be not in line with the objects of the assessee, then the conditions as prescribed u/s 12AB can be regarded as not satisfied. Accordingly, in the facts and circumstances of the case, when the assessee has claimed to have carried out the charitable activities in the subsequent years which are required to be considered by the learned CIT (E) to satisfy himself about the genuineness of the activities carried out for achieving the objects of the Trust. Hence, the impugned order of the learned CIT (E) is set aside and the matter is remanded to the record of the learned CIT (E) for fresh adjudication.

8. In ITA No.167/Hyd/2025, the assessee has challenged the rejection of approval u/s 80G of the I.T. Act, 1961. The learned CIT (E) has rejected the application on the identical ground as recorded in para 3 as under:

3. On perusal of the submissions made by the assessee, it is observed that no substantial activities which are charitable in nature are being carried out by the assessee, which is in violation of the provisions of the section 80G of the IT Act, 1961. In view of the above, the present application in form 10AB for registration u/s 80G is herewith rejected.

UJWAL FOUNDATION

9. Since we have already remanded the matter of registration u/s 12AB of the Act for fresh adjudication after examination of the relevant record, therefore, the impugned order of the learned CIT (E) is also set aside and the matter is remanded to the record of the learned CIT (E) for reconsideration of the

approval u/s 80G of the I.T. Act, 1961 on the same terms and directions.

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

Order pronounced in the Open Court on 6<sup>th</sup> June, 2025.

Sd/-

Sd/-

<b>(MANJUNATHA, G.) ACCOUNTANT MEMBER</b>	<b>(VIJAY PAL RAO) VICE-PRESIDENT</b>
---	---

Hyderabad, dated 6<sup>th</sup> June, 2025

*Vinodan/sps*

Copy to:

S.No	Addresses
1	Ujwal Foundation, H.No.1-88/5/A Plot No.274, Kavuri Hills, Madhapur, BO Shaikpet, Hyderabad 500081
2	CIT (Exemption), Aayakar Bhavan, Opp: LB Stadium, Basheerbagh, Hyderabad 500004
3	Pr. CIT – Exemption, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*