

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
I.T.A. No. 2287/Mum/2025

Krantidevta Savitribai Phule Shikshan Sanstha C/o Himanshu Gandhi 16 th Floor, D Wing Trade World Tower Kamala Mill Compound Lower Parel Mumbail - 400013 [PAN: AACTK4976F]	Vs	Commissioner of Income Tax - (Exemption), Pune
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Himanshu Gandhi, C.A.
Revenue by :	Shri Ritesh Misra. CIT, D/R

सुनवाई की तारीख/Date of Hearing : 02/06/2025
घोषणा की तारीख /Date of Pronouncement: 04/06/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the Id. CIT (Exemptions) - Pune [hereinafter "the Id. CIT(E)"], dated 21/02/2025 by which the Id. CIT(E) has rejected the application of the assessee for registration u/s 12A of the Act.

2. Having heard the rival submissions, we have carefully perused the order of the Id. CIT(E). The solitary reason for denying the registration is the wrong mentioning of the Section in the application by the assessee. This issue has been extensively considered by the Co-ordinate Bench of ITAT Pune in the case of *Mhalasakant Deosthan Mandir vs. CIT [2025] 172 taxmann.com 284 (Pune-Trib.)*, wherein the Tribunal held as under:-

"5. We have heard Ld. Counsels from both the sides and perused the material available on record and also copy of case laws relied on by the assessee. We find that admittedly, the assessee trust was required to file application under clause (iii) of section 12A(1)(ac) of the IT Act but due to inadvertent error the application was filed under clause (vi) of section 12A(1)(ac) of the IT Act and for this reason alone Ld. CIT, Exemption, Pune rejected its application for registration. We find that under identical situations, a Coordinate Bench of this Tribunal in the case of Raj Krishan Jain Charitable Trust (supra) allowed the appeal of the assessee by observing as under :-

"9. As contended the appellant has committed a technical mistake in making the application under Section 12A(1)(ac)(ii) instead of clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act. As pointed out the appellant has filed revised form 10AB for seeking registration under the correct provision i.e. Section 12A(1)(ac)(iii) which can also be considered.

10. In consonance with the decision rendered by the co-ordinate Bench, the typographical error deserves to be corrected. Accordingly, the appeal deserves to be allowed and impugned order dated 15.03.2024 of Ld. CIT (E) is liable to be set aside. Hence, the appeal is allowed and we set aside the order of Ld. CITE) dated 15-03-2024 and remand the matter back to the file of the CIT(E) for fresh adjudication by considering amended application of the appellant under Section 12A(1)(ac) (ii) of the Act, or he can call for amended application from the appellant.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose."

6. Respectfully following the above decision passed by the Co-ordinate Bench of this Tribunal (supra), & considering the totality of facts of the case & in the interest of justice we deem it proper to set-aside the order passed by Ld. CIT, Exemption, Pune and remand the matter back to him with a direction to treat the application already filed by the assessee as under clause (iii) of section 12A(1)(ac) of the IT Act instead of under clause (vi) of section 12A(1)(ac) of the IT Act and decide the same as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT, Exemption, Pune in this regard and produce supporting documents/evidences in support of application for registration without taking any adjournment under any pretext, otherwise Ld. CIT, Exemption, Pune shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal filed by the assessee are partly allowed."

3. Similarly, the Co-ordinate Bench, Mumbai in the case of Rotary Charity Trust vs. Commissioner of Income-tax (Exemption) [2025] 170 taxmann.com 797 (Mumbai-Trib), has held as under:-

5. We have heard the parties and perused the material on record. Before we proceed to examine the facts in assessee's case, it is important to first look at the relevant provisions of first proviso to subsection (5) of section 80G which read as under - Provided that the institution or fund referred to in clause (vi) shall make an

application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,-

(i) where the institution or fund is approved under clause (vi) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;

(ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;

(iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier: [or]

[iv] [*] where activities of the institution or fund have--

(A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought;

B) commenced [***] at any time after the commencement of such activities:]

6. Assessee, in terms of the above provisions, first applied for a provisional approval under sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G within and subsequently (refer clause 2 in Form 10A) and was given the provisional registration up to AY 2024-25 on 04.04.2022. In the application for final approval in Form 10AB, it is noticed that assessee has once again mentioned same section i.e. sub-clause (B) of clause (iv) of first proviso to subsection (5) of section SOG whereas the correct section code under which the assessee ought to have selected is clause iii) of first proviso to subsection (5) of section 80G. We also noticed that Id. CIT(E) has treated the application as one filed under sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G and accordingly rejected the application for not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB.

6.1. From the perusal of forms filed and the facts of the case, in our considered view, there is merit in claim of the Id. AR that assessee has selected the wrong section code inadvertently while filing the application for final registration in Form 10AB. Further, we notice that assessee did not have the opportunity of being heard before Id. CITE) due to incorrect course of action advised, which otherwise assessee might have explained the facts to avoid the impugned rejection. In view of these discussions and respectfully following the above decision of the Kolkata Bench in the case of North Eastern Social Research Centre (supra), we remit the issue back to the file of Id. CIT(E), with a direction to grant final approval to assessee under Clause (iti) to first proviso to section 80G(5) of the Act, if assessee is otherwise found eligible. We also direct Id. CIT(E) to decide the application of the assessee for final approval as quickly as possible before the expiry of the provisional approval granted in order to enable the assessee to have the benefit of section 80G without any break. It is ordered accordingly.

7. In the result, appeal of the assessee is allowed for statistical purposes."

4. In light of the decision of the Co-ordinate Benches (*supra*), we deem it proper to set aside the order passed by the Id. CIT(E) and remand the matter back to him with a direction to treat the application already filed by the assessee as filed with proper Section of the Act and decide the same, as per facts and law after affording a reasonable and adequate opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on June, 2025 at Mumbai.

Sd/-

(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 04/06/2025

Sd/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai