

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A”BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.122 & 123/Bang/2025
Assessment Years : NA

ASG Trust 417/418 2 <sup>nd</sup> Floor, 11 <sup>th</sup> Cross Peenya Industrial Area Bengaluru 560 058 Karnataka  <b>PAN NO : AAFTA6961M</b>	<b>Vs.</b>	CIT (Exemptions) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Tarun Kothari, A.R.
<b>Respondent by</b>	:	Smt. Nandini Das, D.R.

<b>Date of Hearing</b>	:	12.03.2025
<b>Date of Pronouncement</b>	:	09.06.2025

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

These appeals at the instance of the assessee are directed against the orders of the Id. CIT(Exemption)Bangalore both dated 28.11.2024 vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-25/1070732921(1) rejecting the registration u/s 12AB of the Income Tax Act, 1961 (in short “The Act) and vide DIN & Notice No. ITBA/EXM/F/F/EXM45/2024-25/1070733000(1) rejecting the approval u/s 80G of the Act.

**2.** First, we take up the ITA No.122/Bang/2025 for adjudication. In this appeal, the assessee has raised the following grounds of appeal:

1. The order of the learned Commissioner of Income Tax Exemptions, hereinafter referred as the CIT(E) in so far as it is against the appellant is opposed to law, equity, facts, weight of evidence, probabilities and circumstances of the case.
2. The Hon'ble CIT(E) erred in not providing the adequate opportunity of being heard. The learned CIT(E) passed an order rejection the application without seeking any additional data before rejecting the application made for registration under section 12AB. Adequate opportunity of being heard is sin-non-quo and failing this the entire order would be bad in law. Further, the Hon'ble CIT(E) failed to observe the principle audi alteram partem. Reliance is placed on order passed by the Honorable Supreme court in case of *Sahara India (Firm) v. CIT (2008) 300 ITR 403(SC)*.
3. The Hon'ble CIT(E) erred in rejecting the application made for registration under section 12AB without issuing show cause notice proposing to reject the application made and without granting adequate opportunity of being heard to the appellant, is in violation of principles of natural justice on the facts and circumstances of the case. We wish to rely on the order of Honorable High court of Karnataka in case of *Sithappana Halli Bychappa Padmanabha Gowda vs. Income Tax Officer (2024)*.
4. The Hon'ble CIT(E) erred in not following the prescribed procedure for rejecting the application as per section 12AB before passing the rejection order by not providing the opportunity of being heard. Reliance is placed on order passed by the Honorable High court of Allahabad in case of *Ashok Kumar Agarwal v. Union of India*.
5. The Hon'ble CIT(E) erred in disregarding the information and documents submitted by the appellant while rejecting the application for registration under sections 12AB. In the order, the learned authorities incorrectly stated that the appellant had not submitted the financial statements, even though the financial statements were duly attached to the application for registration in Form 10AB.

6. The Hon'ble CIT(E) failed to verify the documents and supporting materials submitted by the appellant. Additionally, the AO did not demonstrate the intent to approve the application, as there was no proper examination of the details provided by the appellant. The appellant had submitted Form 10B for the last three financial years in which financials are attached and uploaded the financial statements while applying for registration. However, the AO erroneously stated that the appellant had not submitted the financials, failing to properly verify the documents. The order hence deserved to be annulled. Reliance is placed on the order passed by *the Pune tribunal bench in case of Suprinit Tradinvest Pvt. Ltd. v. Income Tax Officer (2023)*.
7. The Hon'ble CIT(E) erred in rejecting the appellant's application for registration under sections 12AB without providing adequate reasons. Reliance is placed on *the judgement of Pune tribunal bench in case of Kunashni Foundation vs. CIT(E) and order passed by the Indore tribunal bench in case of Aatma Prakash Mental Health Foundation vs. CIT(E) (2023)*, where it held that, *the Commissioner of Income Tax (Exemptions) had not provided sufficient reasons for the rejection and remanded the matter for fresh consideration, underscoring the necessity of a fair evaluation process.*
8. The Hon'ble CIT(E) erred in stating that the appellant is not carrying charitable activities without appreciating the appellant is carrying on Charitable Activities on facts and circumstances of the case. 
9. The Hon'ble CIT(E) erred in ignoring that Charitable Activities were carried out by the Trust and the sole reason for rejection was that the details were not furnished ignoring that the details called for were furnished and no letter or show cause notice was issued seeking for additional documents and hence without seeking for any additional documents, the rejection of application is bad in law on facts and circumstances of the case.
10. The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.
11. For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.

**3.** Brief facts of the case are that the assessee trust is formed as a public charitable trust vide trust deed dated 06.01.2017 with the objective of establishing schools, colleges, eradicate hunger, poverty and malnutrition, provide aid to hospitals, nursing institutions etc. An addendum to the trust deed was made on 03.02.2024 with regards to the administration of new members to the trust. Further, the assessee trust had obtained the provisional registration u/s 12AB of the Act on 4.4.2022. The assessee trust applied for the final registration u/s 12AB of the Act on 8.5.2024 i.e. within 6 months from the commencement of the activity of the trust as per section 12A (1)(ac)(iii) of the Act. During the course of proceedings before the Id. CIT(E), the assessee had provided the details like bank statement, memorandum of understanding between the trust and the landlord for the construction of building, images of the place where the construction of the said building are being carried on. However, the Id. CIT(E) observed that the activity of the trust have not yet commenced and therefore, no financials have been prepared and submitted. Further, the Id. CIT(E) is of the opinion that the assessee is required to submit necessary documents to prove the genuineness of the activity of the trust or institution and also the compliance of such requirements of any other law as are material for the purpose of achieving its objects. Since in the present case, the assessee has not submitted all the necessary details as required for registration u/s 12AB of the Act and hence the Id. CIT(E) rejected the application filed in form 10AB and cancelled the registration.

**4.** Aggrieved by the order of Id. CIT(E), the assessee has filed the present appeal before this Tribunal.

**5.** Before us, ld. A.R. of the assessee vehemently submitted that the ld. CIT(E) erred in not providing the adequate opportunity of being heard which is a gross violation of principles of natural justice. Further, the ld. CIT(E) without seeking any additional data and without issuing show cause notice rejected the application for registration which is illegal and bad in law and accordingly prayed that one more opportunity may be granted before the ld. CIT(E) to represent its case.

**6.** Ld. D.R. on the other hand relied on the order of ld. CIT(E).

**7.** We have heard the rival submissions and perused the materials available on record. On going through the order of ld. CIT(E), we find that as the assessee had not submitted all the necessary details as required for registration u/s 12AB of the Act, and accordingly, the ld. CIT(E) rejected the application in form 10AB dated 8.5.2024 filed for registration u/s 12AB of the Act. On going through the extract of HDFC bank as well as the note on activities as reproduced by the ld. CIT(E) in her order, it cannot be said that activity of the trust have not commenced yet. Before us, ld. A.R. of the assessee vehemently submitted that the ld. CIT(E), without seeking any additional data, without issuing the final show cause notice proposing to reject the application and without granting adequate opportunity of being heard in violation of principles of natural justice rejected the application of the assessee and accordingly prayed that one more opportunity may be granted before the ld. CIT(E) to represent its case. This being so, in the interest of justice and fair play and as requested by the ld. A.R. of the assessee, we deem it fit & proper to remit the entire issue in dispute to the file of ld. CIT(E) to decide afresh in accordance with law after giving opportunity of being heard to the assessee. The

assessee is also directed to produce all the documents/records/information/financials/reports in support of its claim or as required by Id. CIT(E) for proper adjudication. It is ordered accordingly.

**8.** In the result, appeal filed by the assessee in ITA No.122/Bang/2025 is partly allowed for statistical purposes.

**9.** Now we take up ITA No.123/Bang/2025, wherein the assessee has raised following grounds of appeal:

1. The order of the learned Commissioner of Income Tax Exemptions, hereinafter referred as the CIT(E) in so far as it is against the appellant is opposed to law, equity, facts, weight of evidence, probabilities and circumstances of the case.
2. The Hon'ble CIT(E) erred in not providing the adequate opportunity of being heard. The learned CIT(E) passed an order rejection the application without seeking any additional data before rejecting the application made for registration under section 80G(5). Adequate opportunity of being heard is sin-non-quo and failing this the entire order would be bad in law. Further, the Hon'ble CIT(E) failed to observe the principle audi alteram partem. Reliance is placed on order passed by the Honorable Supreme court in case of Sahara India (Firm) v. CIT (2008) 300 ITR 403(SC).
3. The Hon'ble CIT(E) erred in rejecting the application made for registration under section 80G(5) without issuing show cause notice proposing to reject the application made and without granting adequate opportunity of being heard to the appellant, is in violation of principles of natural justice on the facts and circumstances of the case. We wish to rely on the order of Honorable High court of Karnatka in case of Sithappana Halli Bychappa Padmanabha Gowda vs. Income Tax Officer (2024).

*Signature*

4. The Hon'ble CIT(E) erred in not following the prescribed procedure for rejecting the application as per section 80G before passing the rejection order by not providing the opportunity of being heard. Reliance is placed on order passed by *the Honorable High court of Allahabad in case of Ashok Kumar Agarwal v. Union of India*.
5. The Hon'ble CIT(E) erred in disregarding the information and documents submitted by the appellant while rejecting the application for registration under sections 80G. In the order, the learned authorities incorrectly stated that the appellant had not submitted the financial statements, even though the financial statements were duly attached to the application for registration in Form 10AB.
6. The Hon'ble CIT(E) failed to verify the documents and supporting materials submitted by the appellant. Additionally, the AO did not demonstrate the intent to approve the application, as there was no proper examination of the details provided by the appellant. The appellant had submitted Form 10B for the last three financial years in which financials are attached and uploaded the financial statements while applying for registration. However, the AO erroneously stated that the appellant had not submitted the financials, failing to properly verify the documents. The order hence deserved to be annulled. Reliance is placed on the order passed by *the Pune tribunal bench in case of Suprinit Tradinvest Pvt. Ltd. v. Income Tax Officer (2023)*.
7. The Hon'ble CIT(E) erred in rejecting the appellant's application for registration under sections 80G without providing adequate reasons. Reliance is placed on *the judgement of Pune tribunal bench in case of Kunashni Foundation vs. CIT(E) and order passed by the Indore tribunal bench in case of Aatma Prakash Mental Health Foundation vs. CIT(E) (2023)*, where it held that, *the Commissioner of Income Tax (Exemptions) had not provided sufficient reasons for the rejection and remanded the matter for fresh consideration, underscoring the necessity of a fair evaluation process.*

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8. The Hon'ble CIT(E) erred in stating that the appellant is not carrying charitable activities without appreciating the appellant is carrying on Charitable Activities on facts and circumstances of the case.
9. The Hon'ble CIT(E) erred in ignoring that Charitable Activities were carried out by the Trust and the sole reason for rejection was that the details were not furnished ignoring that the details called for were furnished and no letter or show cause notice was issued seeking for additional documents and hence without seeking for any additional documents, the rejection of application is bad in law on facts and circumstances of the case.
10. The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.
11. For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.

**10.** Since we have remitted the entire issue of registration u/s 12AB of the Act to the file of ld. CIT(E), we also deem it fit & proper to remit this issue of approval u/s 80G of the Act to the file of ld. CIT(E) to decide afresh in accordance with law as the assessee has also not submitted all the necessary documents to prove the genuineness of the activities of the trust and fulfillment of all the conditions laid down in clause (i) to (v) of Section 80G of the Act.

**11.** In the result, appeal filed by the assessee in ITA No.123/Bang/2025 is also partly allowed for statistical purposes.

**12. In the combined result, both the appeal filed by the assessee are partly allowed for statistical purposes.**

Order pronounced in the open court on 9<sup>th</sup> June, 2025

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 9<sup>th</sup> June, 2025.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**