

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 10/Del/2025
(Assessment Year: 2024-25)

Lala Sher Singh Memorial Jeevan Vigyan Trust Society, Plot No. 18, Sector-22, Phase-1, Dwarka, Delhi-110075	Vs.	PCIT(Central)-3, Jhandewalan, New Delhi
(Appellant)		(Respondent)
PAN: AAAAL2241H		

ITA No. 20/Del/2025
(Assessment Year: 2024-25)

Jindal Charitable Society, PS-2, C-3, Block, Phase-II, Ashok Vihar, Delhi- 110052	Vs.	PCIT(Central)-3, Jhandewalan, New Delhi
(Appellant)		(Respondent)
PAN: AAATJ0588L		

ITA No. 19/Del/2025
(Assessment Year: 2024-25)

Florence Nighingale Educational Society, Sector-16B, Phase-I, HAF Pocket-A, Sector-22, Delhi- 110075	Vs.	PCIT(Central)-3, Jhandewalan, New Delhi
(Appellant)		(Respondent)
PAN: AAAAF1097R		

Assessee by :	Shri Mahesh Kumar, CA Ms. Meenal Goyal, CA Ms. Vidhi Mangla, Adv
Revenue by:	Shri Jintender Singh, CIT DR
Date of Hearing	05/06/2025
Date of pronouncement	16/06/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The instant batch of 3 appeals of different assessee's is for AY 2024-25. Identical issues are involved in all these appeals and hence they are taken up together and disposed of by this common order for the sake of convenience. The facts of ITA No. 20/Del/2025 are taken up for adjudication and decision rendered thereon shall apply mutatis mutandis for other assessee's also in view of identical facts except with variance in figures.

2. The assessee has raised the following grounds of appeal before us:-

"1. That on facts and in law, the Ld. Principal Commissioner of Income Tax (Central)-3, Delhi ("Ld. PCIT") erred in passing the impugned order dated 30.12.2024 under Section 12A read with Sections 12AA and 12AB(4) of the Income-tax Act, 1961 ("the Act") sans lawful jurisdiction and in a pre-determined, arbitrary and mechanical manner by exclusively relying on 3rd party statements which have not been subjected to cross-examination, rendering the impugned order non est and void ab initio.

2. That on facts and in law, the Ld. PCIT failed to appreciate that the power to cancel registration under Section 12AB(4) of the Act is vested exclusively with the Principal Commissioner/Commissioner of Income Tax (Exemption) vide CBDT Notification No. 52/2014 dated 22.10.2014, and the exercise of such powers by the Ld. PCIT/Respondent is without jurisdiction and also contrary to the provisions of Section 119 of the Act.

3. That on facts and in law, the Ld. PCIT erred in relying on per incuriam decisions to assume jurisdiction by ignoring the binding precedents of the Co-ordinate bench of this Ld. Tribunal vide Lakhmi Chand Charitable Society v. PCIT (Central)-3 (ITA No. 1803/Del/2024) and Aggarwal Vidya Pracharni Sabha v. PCIT (Central)-3 (ITA No. 1308/Del/2023), wherein it has been categorically held that the PCIT (Central) has no authority to cancel registration under Section 12AB(4) of the Act.

4. That on facts and in law, the Ld. PCIT erred in assuming jurisdiction to cancel the Appellant's registration under Section 12A read with Sections 12AA and 12AB(4) of the Act, without addressing or distinguishing the judicial precedents vide Heart Foundation of India v. Commissioner of Income Tax-Central, Pune (ITA No. 1524/Mum/2023 dated 12.07.2023)

and Pacific Academy of Higher Education and Research Society v. PCIT (Central) (ITA. Nos. 04-05/Jodh/2020 dated 25.01.2023), wherein it has been categorically held that the Principal Commissioner of Income Tax (Central) does not have jurisdiction to cancel registrations under Section 12A/12AA/12AB of the Act.”

3. We have heard the rival submissions and perused the materials available on record. The present appeal is filed against the order passed by the Learned PCIT (Central) on 30-12-2024 under section 12A r.w.s. 12AA and 12AB(4) of the Act by retrospectively cancelling the assessee's registration earlier granted under section 12AA of the Act. The assessee is an educational society duly registered under section 12AA of the Act and enjoying exemption under section 80G of the Act. The assessee society operates under the name of 'Prudence School' in Ashok Vihar, New Delhi. On 24-08-2022, a search and seizure operation under section 132 of the Act was conducted on Smt Sudha Gupta, Shri Devendra Gupta and others including the Prudence Group and statements of some individuals were recorded. The case of the department is that the search and seizure operation revealed the modus operandi of Mother's Pride and Presidium group of schools managed by Smt Sudha Gupta and Shri Devendra Gupta and Prudence group of schools managed by Sri G.S. Matharoo in systematic tax evasion i.e. raising funds from public through cash and cheque, siphoning of funds from trusts/ societies for personal use and unexplained investments. The cases belonging to Smt Sudha Gupta and Shri Devendra Gupta group including the assessee were centralized to Central Circle 29 from Circle (Exemptions) 1(1), Delhi vide order passed under Section 127 of the Act dated 15-11-2022. The learned assessing officer i.e. Central Circle 29 Delhi was satisfied that the assessee

had committed certain specified violations as per explanation to Section 12AB(4) of the Act. Hence, the case of the assessee was referred to the learned PCIT (Central) proposing cancellation of registration of the assessee as per second proviso to Section 143(3) of the Act substituted by Finance Act, 2022 and applicable from 1.4.2022 onwards.

4. Based on the said reference, the Learned PCIT (Central) on 30.6.2024 issued the show-cause notice proposing the cancellation of registration of the assessee society under section 12AB(4) r.w.s. 12A and 12AA of the Act. The assessee filed its replies objecting to the jurisdiction of the Learned PCIT (Central) in issuing the show-cause notice and also filed its objections on merits. It was submitted that the Learned CIT (Exemptions), Delhi would be the prescribed authority who is vested with the power to cancel such registration as per the binding CBDT Notification No. 52/2014 dated 22.10.2014. It was submitted that the jurisdiction of the Learned PCIT (Central) was limited only to the matters of assessment and does not encompass the authority to grant or cancel registration under section 12A/12AA of the Act. The assessee also objected to the proposal of the Learned PCIT (Central) to retrospectively cancel the registration granted to the assessee. The assessee also filed its objections stating that the specified violations as stated in the show-cause notice stood applicable only from 1-4-2022 relevant to Assessment Year 2023-24 onwards and the same cannot be applied to the earlier years thereby resorting to retrospective cancellation of registration. The Learned PCIT (Central) however did not heed to any of the aforesaid contentions of the assessee and proceeded to cancel the registration with retrospective effect

from Assessment Year 2016-17 onwards vide order passed under section 12A r.w.s. 12AA & 12AB(4) of the Act dated 30.12.2024.

5. We find that the copy of the CBDT Notification No. 52 / 2014 dated 22.10.2014 is enclosed in pages 673-677 of the paper book. We find that the said CBDT Notification has been deliberated in the decision of the coordinate bench of this Tribunal in the case of Meenakshi Foundation vs PCIT in ITA No. 3952/Del/2024 dated 23.5.2025 wherein it was held that the power to cancel registration vest only with the CIT (Exemptions) and not PCIT (Central). The relevant operative portion of the said Tribunal order is reproduced hereunder:-

"6. Considered the rival submissions and material placed on record. We observed that on the similar facts available on record, the coordinate Bench has decided the exactly similar issue in the case of Lakhmi Chand Charitable Society vs. PCIT, Central 3, New Delhi in ITA No.1803/Del2024 vide order dated 22.08.2024 as under :-

"10. We have heard the rival submissions made by the respective parties, we have further perused the relevant materials available on record including the orders passed by the authorities below.

11. The case of the assessee is this that the reference dated 04.05.2022 and also dated 31.07.2023 made by the Assessing Officer on the basis of 2nd Proviso to Section 143(3) of the Act is not applicable in the case in hand. The said reference granted under Section 12AA can only be made during the pendency of the assessment proceedings which admittedly has been concluded on 29.03.2022 for the appellant before us. According to the appellant's counsel such reference could have been made only during the course of assessment proceedings so that the effect of such order passed by the PCIT can be considered while passing final order of assessment by the Assessing Officer. In the case in hand as the assessment proceedings has already been concluded on 29.03.2022 the effect of such alleged violation cannot be made in the assessment order itself as was the main argument advanced by the Ld. Counsel appearing for the assessee before us.

11.1 Moreso, this particular 2nd proviso to Section 143(3) of the Act was substituted and made effective from 01.04.2022 whereby and whereunder the Assessing Officer has been vested with the power to

make reference to the PCIT for institutions granted registration under Section 12AA/12AB of the Act. In that view of the matter as there was no provision existing in the statute prior to 01.04.2022 vesting jurisdiction upon the Assessing officer to make reference for alleged violation under Section 12AB(4) of the Act as amendment to Section 12AB(4) and 2nd proviso to Section 143(3) were made w.e.f 01.04.2022. The reference has, thus, no basis and is liable to be quashed.

12. In addition to that, it was submitted by the Ld. A.R. that the reference in terms of 2nd proviso to Section 143(3) of the Act is to be made to the CIT(E) and not to the PCIT or Commissioner to whom the assessing officer would be subordinate. In the case in hand, it appears from the impugned order dated 31.03.2024 that the PCIT has acted on the reference made by the Assessing Officer. In that view of matter the impugned order issued by the Ld. PCIT cancelling the registration passed on the reference of the Assessing Officer purportedly under 2nd proviso to Section 143(3) is without jurisdiction and therefore liable to be quashed.

13. The further case made out by the appellant is this that the PCIT invokes Section 12AA of the Act, while issuing show cause notices dated 05.07.2023 and 16.08.2023 whereas Section 12AA(5) of the Act provides that the provision of Section 12AA are not to be applied on or after 01.04.2021. In that view of the matter the show cause notices mentioned hereinafter issued by the Ld. PCIT are flawed and not maintainable in view of the provision of Section 12AA (5) of the Act. The power to cancel registration granted under Section 12A r.w.s 12AB of the Act can no longer be exercised under Section 12AA(3) after 01.04.2021.

14. Section 12AB(4) was substituted by the Finance Act 2022 w.e.f 01.04.2022 vesting jurisdiction to the Ld. PCIT to cancel registration granted under Section 12AA(1) of the Act or under Section 12AB(1) of the Act. As Section 12AB(4) was not in existence in the statute prior to 01.04.2022 such specified violation, if any, existed prior to 01.04.2022 cannot be touched by the Ld. PCIT by invoking Section 12AB(4) of the Act.

15. Otherwise also the alleged violation specified in the show cause notices pertained to the period prior to search dated i.e. 14.10.2020 and therefore proceeding emanating under Section 12AB(4) of Act proposing cancellation of Registration for Assessment Year 2015-16 to 2021-22 is totally unlawful and ultravires to the provisions of Section 12AB(4) of the Act.

16. As per the contentions made by the Ld. Counsel appearing for the assessee before us that the jurisdiction to grant and/or withdrawing exemption vest with the Ld. CIT(Exemption). The transfer to case under

Section 127 of the Act by and under the order dated 04.01.2021 is only for the purpose of coordinated assessment and not for the purpose of exercising jurisdiction for cancellation of registration. In that view of the matter it cannot be assumed that with the transfer of case of the appellant under Section 127 of the Act for coordinated assessment by the CIT(Exemption) Delhi by and under the order dated 04.01.2021 also transfers the proceedings for cancellation of registration. The order under Section 127 dated 04.01.2021 does not speak that Section 12A registration has also been transferred to the jurisdiction of Ld. PCIT, Central Delhi and thus exercising such powers by the said PCIT-3 for cancellation of registration is not in terms of the statutory provision rather bad in law and therefore, liable to be quashed.

17. The jurisdiction to withdraw exemption vests with the "prescribed authority". The PCIT has no jurisdiction to withdraw or cancel the exemption. In this regard the Notification No. 52/2014 and 53/2014 both dated 22.10.2014 vesting powers to the Ld. CIT(Exemption) Delhi in the territorial area specified in Column No. 4 of the said notification who are claiming exemption inter/alia under Section 12A of the Act has been relied upon. It is the case made out by the appellant that by and under the said notification the Ld. CIT(E) has been constituted separately for the purposes mentioned therein. Thus, it is the CIT(E) to exercise the power not the PCIT as has been wrongly done in the case in hand. In this case he has referred the judgment passed in the matter of Aggarwal Vidhya Pracharni Sabha Vs. PCIT in ITA No. 1308/DEL/2023 passed by the Coordinate Bench, relevant portion whereof is as follows:

"9. After giving thoughtful consideration to the facts and circumstances of the case and to the submissions, it comes up that the admitted case of the Revenue is that there was no specific order under any provisions of the Act other than the order dated 26.10.2020 passed u/s 127 of the Act centralizing the case of M/s Aggarwal Vidya Pracharni Sabha consequent to a search and seizure action u/s 132(1) of the Act to vest Id. PCT, Gurgaon the powers to pass the impugned order. The Id. DR has relied on the Explanation attached to section 127 of the Act to submit that the word, 'case' has been defined for the purpose of section 127 and consequent to the centralization of the assessment, the Id. PCIT, Gurgaon had got powers to commence proceedings u/s 12AB(4) of the Act for cancellation of registration of the assessee.

9.1 In this context, the Id counsel for the assessee has heavily relied on the CBDT Notification No 52/2014 made available at page 2 to 6 of the paper book submitting that in regard to powers u/ss 11 and 12 of the Act, the CIT (Exemptions), Chandigarh specific jurisdiction and which could not have been transferred.

Relying on the order u/s 127 of 26.10.2020, it was submitted that the order specifically mentions the transfer of case for carrying out post search investigation and meaningful assessment and not for any other purpose like cancellation of the registration

10. *Now to decide the question of valid exercise of jurisdiction by Ld. PCIT, Gurgaon, will be first relevant to reproduce the section 127 of the Act as follows-*

"Power to transfer cases. 127. (1) The Principal Director General or Director General or Principal Chief Commissioner Of Chief Commissioner Or Principal Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer of Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner of Principal Commissioner or Commissioner,

(a) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners of Principal Commissioners of Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order,

(b) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation.--In section 120 and this section, the word "case", in relation to any person whose name is specified in any order or direction issued there under, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

10.1 Further, we consider it appropriate to reproduce relevant portion of Section 12AB and relevant part Rule 17A as under:-

"Section 12AB,

12AB Procedure for fresh registration (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub section (1) of section 12A, shall,

(a) where the application is made under sub clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years,

(b) where the application is made under sub-clause (11) or sub-clause (iii) or sub clause (iv) or sub clause (v) of the said clause,--

(1) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about

(A) the genuineness of activities of the trust or institution, and

(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects, and

(ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under Item (A), and compliance of the requirements under item (B), of sub-clause (1),

(A) pass an order in writing registering the trust or institution for a period of five years;

(B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard,

(c) where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.

(2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of sub section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be an application made under sub clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.

(3) The order under clause (a), sub-clause (ii) of clause (b) and clause (c), of sub-section (1) shall be passed, in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received.

(4) Where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, the Principal Commissioner or Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution after affording a reasonable opportunity of being heard.

(5) Without prejudice to the provisions of sub-section (4), where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub section (1) and subsequently, it is noticed that-

(a) the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13, or

(b) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of subsection (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality, then, the Principal Commissioner of the Commissioner may, by an order in writing, after affording a reasonable opportunity of being heard, cancel the registration of such trust or institution."

Rule 17A

"(5) On receipt of an application in Form No. 10A, the Principal Commissioner or Commissioner, authorised by the Board shall pass an order in writing granting registration under clause (a), or clause (c), of sub-section (1) of section 12AB read with sub-section (3) of the said section in Form No. 10AC and issue a sixteen digit alphanumeric Unique Registration Number (URN) to the applicants making application as per clause (1) of the sub-rule (1).

(6) If, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents required to be provided under sub rule (1) or (2) or by not complying with the requirements of sub-rule (3) or (4), the Principal Commissioner or Commissioner, as referred to in sub- rule (5), after giving an opportunity of being heard, may cancel the registration in Form No. 10AC and Unique Registration Number (URN), issued under sub-rule (5), and such registration or such Unique Registration Number (URN) shall be deemed to have never been granted or issued.

(7) In case of an application made under sub-clause (vi) of clause (ac) of sub- section (1) of 4 section 12A as it stood immediately before its amendment vide the Finance Act, 2023,] during previous year beginning on 1st day of April, 2021, the provisional registration shall be effective from the assessment year beginning on 1st day of April, 2022.

(8) In case of an application made in Form No. 10AB under clause (ii) of the sub rule (1), the order of registration or rejection or cancellation of registration under sub-clause (ii) of clause (b) of sub-section (1) of section 12AB shall be in Form No. 10AD and in case if the registration is granted, sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued by the Principal Commissioner or Commissioner referred to in of sub-section (1) of section 12AB.

(9) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall:

(i) lay down the form, data structure, standards and procedure of,

(a) furnishing and verification of Form No. 10A or 10AB, as the case may be,

(b) passing the order under clause (a), sub clause (11) of clause (b) and clause (c) of sub-section (1) of section 12AB.

(ii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said application made or order so passed as the case may be.]

11. *Further, it will be appropriate to reproduce the order u/s 127(2) dated 26.10.2020 available at page No. 1 of the paper book:-*

"Order u/s 127 (2) of the Income Tax Act, 1961

Consequent to the search & seizure operations u/s 132 of the I.T. Act, 1961 in Dev Wines Group (D.OS 19.02.2020), the Pr. Commissioner of Income Tax (Central), Gurugram vide letter F.No. Pr.CIT(C)/GGM/Cent./Dev Wines/2020- 21/969 dated 24.08.2020 has been given concurrence and requested for centralization of the following cases related M/s. Dev Wines Group to DC11, Central Circle 2, Faridabad for coordinated post search investigation & meaningful assessment

Accordingly, in exercise of power conferred by sub-section (2) of Section 127 of the Income Tax Act, 1961 and under all other powers enabling me in this behalf, I, the Commissioner of Income Tax (Exemptions), Chandigarh hereby transfer the following case(s), particulars of which are mentioned hereunder in Columns (2) and (3) from the Assessing Officer mentioned in Column (4) therein, to the of the Assessing Officer mentioned in Column (5) –

Sr. No.	Name and address of the assessee	PAN	From	To

(1)	(2)	(3)	(4)	(5)
1.	M/s. Aggarwal Vidhya Pracharni Sabha (Aggarwal College, Ballabgarh)	AABTA3490Q	Circle – 2(E), Chandigarh	DCIT, Central Circle – 2, Faridabad. DLC-CC-136-4

This order shall take effect from 26.10.2020."

12. We also consider it appropriate to reproduce the relevant part of the Notification dated 22.10 2014 providing for the territorial jurisdiction of CIT(E) in furtherance of powers given to the Board u/s 120 (1) and (2) of the Act, made available at pages 2 to 5 of the paper book:-

"NOTIFICATION

New Delhi, the 22nd October, 2014

(Income Tax)

S.O. 2754 (E).--In exercise of the powers conferred by sub-section (1) and (2) of section 120 of the Income-Tax Act, 1961 (43 of 1961) and in supersession of the notification of the Government of India, Central Board of Direct Taxes number S.O.880(F), dated the 14th September, 2001, published in the Gazette of India, Extraordinary, Part 11, Section 3, Sub section (ii), dated the 14th September, 2001, except as respects things done or omitted to be done before such supersession, the Central Board of Direct Taxes hereby –

Sr. No.	Designation	Headquarters	Territorial Area	Cases or classes of cases
(1)	(2)	(3)	(4)	(5)
1.	Commissioner of Income-tax (Exemption), Ahmedabad.	State of Gujarat,	Union Territory of Daman and Diu, Union Territory of Dadra and Nagar Haveli	All cases of persons in the territorial area specified in column (4) claiming exemption under clauses (21), (22), (22A), (22B), (23), (23A),

				<i>(23AAA), (23B), (23C), (23F), (23FA), (24), (46) and (47) of Section 10, Section 11, Section 12, Section 13A and section 13B of the Income tax Act, 1961 and assessed or assessable by an Income-tax authority at Serial Number 1 to 20 specified in the notification of Government of India bearing number S.O. 2752 dated the 22nd October, 2014.</i>
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4.	<i>Commissioner of Income-tax (Exemption), Chandigarh.</i>	<i>Chandigarh</i>	<i>States of Jammu and Kashmir, Himachal Pradesh, Punjab Haryana and Union</i>	<i>All cases of persons in the territorial area specified in column (4) claiming exemption under Clauses (21), (22), (22A), (22B) (23), (23A) (23AAA),</i>
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			<i>Territory of Chandigarh</i>	<i>(23B), (23C), (23F), (23FA), (24), (46) and (47) of Section 10, Section 11, Section 12, Section 13A and section 13B of the Income tax Act, 1961 and assessed or assessable by an Income-tax authority at Serial Number 50 to 68 specified in the notification of Government of India bearing number S.O. 2752 dated the 22nd October, 2014.</i>
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2. This notification shall come into force with effect from the 15th day of November, 2014.

[Notification No. 52/2014/F No. 187/38/2014(ITA. I)]

DEEPSHIKHA SHARMA Director"

12.1 A reference was made by Ld. AR about the circular no 11 of 2022 MANU/DTCR/0011/2022 dated 3rd June 2022, giving clarification regarding Form No.10 AC till the date of the circular and it will be relevant to reproduce para 1 of this circular herebelow;

"Circular No. 11 of 2022: MANU/DTCR/0011/2022

F. No.370142/4/2021-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

(TPL Division)

Dated: 3rd June, 2022

Sub: Clarification regarding Form No 10AC issued till the date of this Circular - reg.

Finance Act, 2022 has inserted sub-section (4) in section 12AB of the Income-tax Act, 1961 (the Act) allowing the Principal Commissioner or Commissioner of Income-tax to examine if there is any "specified violation" by the trust or institution registered or provisionally registered under the relevant clauses of sub-section (1) of section 12AB or subsection (1) of section 12AA. Subsequent to examination by the Principal Commissioner or Commissioner of Income-tax, an order is required to be passed for either cancellation of the registration or refusal to cancel the registration. Similar provisions have also been introduced in clause (230) of section 10 of the Act by substituting the fifteenth proviso of the said clause with respect to fund or institution trust or institution or any university or other educational institution or any hospital or other medical institution referred under sub clauses (iv), (v), (vi), (via) of this clause and which have been approved or provisionally approved under the second proviso to the said clause. These amendments are effective from 1st April, 2022. In addition to the specified violations referred above, the power of cancellation has also been granted under sub-rule (5) of rule 17A and sub rule (5) of rule 20 of the Income-tax Rules, 1962 (the Rules) to the Principal Commissioner authorised by the Board. This Circular only relates to cancellation of registration/approval or provisional registration/approval in the case of "specified violation".

13. Now, as we go through the impugned order passed u/s 12AB(4) of the Act, the PCIT mentions that consequent to the completion of assessment proceedings, facts were communicated to his office by the AO pertaining to AY 2014-15 to 2020 vide his letter dated 23.08.2022. This letter dated 23.08.2022 has been reproduced at page No.32 of the impugned order and it shows that this letter was issued in supersession of earlier letter dated 11.04.2022. Further, the subject of the letter is as follows:-

"Sub. Proposal for cancellation of registration granted u/s 12AA/12AB of the Act as per provisions of Section 12AB(4) of the Act in the case of 'Aggarwal Vidya Pracharni Sabha' " – Reg.

13.1 Then what comes up is that the Id. PCIT has made out a case that the powers he had exercised u/s 12AB(4) are by virtue of clause (a) to sub-section (4) of section 12AB on the basis of 'noticing' occurrence of

specified violation. The Id. PCIT has considered himself to be empowered by virtue of Explanation attached to section 127, defining 'case', to commence proceedings under this Act u/s 12AB(4) after the order dated u/s 127 dated 16.10.2020.

14. Having considered the aforesaid, it comes up that the order of transfer u/s 127 dated 26.10.2020 is shown to be passed under sub-clause (a) to subsection (2) of section 127 of the Act which gave powers to CIT(E) Chandigarh to pass order of transfer qua such 'Assessing Officers' who are subordinate to other the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner Thus when we consider the definition of "Assessing officer" u/s 2(7A) of the Act, certainly PCIT, Gurgaon, who has passed the Impugned order is not an 'assessing officer, and order passed dated 26.10.2020, under sub clause (a) to subsection (2) of section 127 of the Act only referred to transfer of Jurisdiction of 'assessing officer subordinate to CIT(E) Chandigarh to DCIT, Central Circle-2, Faridabad DLC-CC-136-4 as assessing officer and not original jurisdiction of CIT(E) Chandigarh with regard to the subject matter as stands vested by order of CBDT dated 22/10/2014.

14.1 Further, what is material is that by the Notification dated 22.10.2014 the Board, exercising powers under sub-section (1) and sub-section (2) of section 120 vested powers to perform all the functions in respect of class of cases referred in the column No.5 of the Schedule of this Notification and had created a specific jurisdiction on territorial basis in regard to the provisions generally dealing with claim of exemptions u/ss 10,11,12, 13A and section 138 of the Act.

14.2 Thus as we refer to the Notification dated 22.10.2014, the clause (a) vested powers with Commissioners of Income-tax (Exemptions), for class or class of cases pertaining to section 10, section 11, section 12, section 13A and section 138 of the Art and clause (b), to issue orders in writing for the exercise of 'their powers and perform all 'their functions by Additional Commissioners of Income tax or Joint Commissioners of Income tax and Tax Recovery Officers who are subordinate to them and that signifies that again this delegation of powers by CIT(E), Chandigarh could have been qua officers subordinate to CIT(E), Chandigarh only and not, in any way, gave powers to CIT(E), Chandigarh to pass an order u/s 127(2)(b) of the Art to transfer powers vested by Board to any other Tax Authority.

14.3 Next, as we refer to Section 12AB and Rule 17A which have come into effect from 01.04.2021, and read it with the Circular no. 11 MANU/DTCR/0011/2022 dated 3rd June 2022, it comes up that section

12AB(2) of the Act provides that the pending applications under clause (b) of sub-section (1) of section 12AA before the date on which section 12AB came into force shall be deemed to be applications made under sub-clause (4) of clause (ac) of sub-section (1) of section 12A on that date for grant of registration.

14.4 However, as far as provision of cancellation of the registration provided by sub-section (4) of section 12AA is concerned, sub-section (4) of section 12AB brings into place a completely new self-contained procedural code for conducting inquiry about specified violations, cancelling registration or refusing to cancel registration.

14.5 The Rule 17A, as clarified by Circular dated 3rd June 2022 provides that in addition to the 'specified violations', the power of cancellation has also been granted under sub-rule (5) of rule 17A and sub-rule (5) of rule 2C of the Income tax Rules, 1962 to the Principal Commissioner or Commissioner authorised by the Board. The authorization u/s 12AB or Rule 17A if have to be construed, by virtue of Board Notification dated 22.10.2014, then we pointed out during the hearing, to Id. D.R that this Notification dated 22.10.2014 does not mention specifically that the powers which can be exercised by Id. PCIT u/s 12AB(4) of the Act and which have come into effect from 01.04.2021 would also be exercised by virtue of this Notification dated 22.10.2014 or that further jurisdiction u/s 12AB of the Act could be transferred to other authorities as per this Notification. The query was left unsatisfied and no other Notification or Circular was brought to our notice."

15. Thus, at one end, in the absence of any specific reference of section 12AB in the Notification dated 22.10.2014 or there being subsequent authorisation by any Circular or Notification of the Board, we conclude that at the time of passing the order u/s 127 of the Act on 26.10.2020, CIT(E), Chandigarh did not have powers to as such transfer his jurisdiction u/s 127(2)(a) of the Act, for the purpose of Section 12AB has come into effect from 01.04.2021 Accordingly, under no circumstance while passing order u/s 127 of the Act on 26.10.2020, CIT(E), Chandigarh could have transferred his powers u/s 12AB of the Act to any other authority.

15.1 On the other hand, Id. PCIT, Gurgaon by virtue of the Explanation defining the scope of 'case' for the purpose of section 127, did not have power vested in him to cancel registration u/s 12AB(4) The 'case' refers to assessment initiated as a consequence of search or consequential proceedings to such assessments only and cannot be extended to special powers of Id. CIT(E), Chandigarh, Thus, the assumption of jurisdiction on the basis of the order dated 26.10.2020 of CIT(E), Chandigarh is completely illegal and that makes the whole exercise of Id. PCIT passing the impugned order liable to be quashed.

16. Furthermore, if examine the legality of the procedure followed by Id. PCIT, Gurgaon to pass order u/s 12AB(4), by recourse to exercise of powers by virtue of clause (a) of sub-section (4) of section 12AB, it comes up that Id.PCIT, Gurgaon admits that a 'proposal for cancellation of the registration of the assessee trust granted u/s 12AA of the Act was forwarded vide letter dated 23.08.2022 by the AD through the Range head. In this context, if we refer to second proviso to subsection (3) of section 143 of the Act, the same provides that if the AO is satisfied about any specified violation provided in sub-section (4) of section 12AB, the AO shall send a 'reference' to the PCIT or Commissioner to withdraw the approval or registration, as the case may be, and clause (b) to this proviso provides that no order making an assessment of total income or loss of such institution or trust shall be made without giving effect to the order passed by PCIT or Commissioner. In the case in hand, the Ld.PCIT, Gurgaon has reproduced the part of letter dated 23.08.2022 which has observed about a 'proposal' of cancellation of registration u/s 12AB(4) and based upon the same, the Id. PCIT had initiated action. The assessment by said assessing officer was completed in September, 2021, so, before the letter dated 23.08.2022 the assessment proceedings stood culminated. Thus, there was no occasion for concerned AO to invoke 'reference' powers under second proviso to sub-section (3) of section 143 of the Act. To that extent Ld. PCIT observations are correct.

16.1 However, what is relevant here is that in any case the 'reference' by jurisdictional AO was to be made not to the PCIT or Commissioner, to whom this AO was subordinate but one authorised by board for the purpose of Section 12AB. The one who could grant or cancel the registration as per amended provisions which is not PCIT, Gurgaon, but, would be CIT(E), Chandigarh. Thus assumption of jurisdiction for cancellation of registration u/s 12AB(4) of the Act by virtue of aforesaid transfer of jurisdiction order u/s 127 of the Act is not conceivable."

...

"21. In the light of the aforesaid discussion and the law cited before us, we are of the considered view that the impugned order has been passed by Ld. PCIT, Gurgaon, without jurisdiction in context to territorial powers and subject matter as well not in accordance with law and same is liable to be quashed. Accordingly, the additional ground raised by the assessee is allowed. Since the relief is granted to assessee by allowing additional ground itself, the adjudication of other grounds raised by the assessee become academic in nature and are left open. Resultantly, the appeal of the assessee is allowed and the impugned order is quashed."

18. *Having regard to the judgment as relied upon by the Ld. A.R we are of the considered opinion that the reference made in terms of 2nd proviso of Section 143(3) of the Act to the PCIT to whom the AO was subordinate is not permissible rather it is the CIT(E) Delhi, having territorial jurisdiction specified in Column 4 of the Notification Nos. 52/2014 and 53/2014 both dated 22.10.2014 from whom exemption inter/alia under Section 12A of the Act is being claimed is the appropriate authority. In fact by and under the said notification the CIT(Exemption) has been constituted separately for the purposes mentioned therein. In that view of the matter the order passed by the PCIT cancelling registration of the appellant society on the reference made by the Assessing Officer is found to be flawed and without jurisdiction.*

19. *Apart from that after considering the 2nd proviso of Section 143(3) of the Act, we find that the reference granted under Section 12AA of the Act is permissible to be made only during the pendency of the assessment proceeding. However, in the case in hand the assessment proceeding has already been concluded on 29.03.2022. In fact, the reference could be made only during the course of assessment proceedings so as to enable the Ld. AO to give effect of the order passed on reference in the Assessment Order itself. Moreso, the said proviso has been inserted w.e.f 01.04.2022 in the statute to make reference to the PCIT by the AO under Section 12AA, 12AB of the Act. In that view of the matter application of a particular provision of law which was not in existence during the material point of time cannot be said to have been rightly invoked.*

20. *So far as the provision of Section 12AB(4) of the Act as exercised by the PCIT is concerned the Ld. A.R relied upon a judgment passed by the Bangalore Bench in the case of M/s Islamic Academy of Education, Mangalore in ITA No. 610/Bang/2023 for Assessment Year 2021-22, a copy whereof has also been annexed to the paper book filed before us by the appellant. While dealing with this particular aspect of the matter the Bench has been pleased to observe as follows:*

"8.1.9 registration Before the amendment by the Finance Act, 2022, Section 12AB(4) provided for cancellation of registration in case of any violation under Section 13. The amended Section 12AB(4) does not consider a violation of Section 13(l)(c) and Section 13(l)(d) as specified violations. Consequently, the registration cannot be cancelled on the ground that the assessee has violated Section 13(l)(c) or Section 13(1)(d).

8.1.10 The Finance Act 2023 has inserted clause (g) in Explanation to Section 12AB(4) to provide that giving incomplete, false, or inaccurate information in a registration application under Section 12A(l)(ac) will be deemed as a "specified violation" that can lead to the cancellation of registration.

8.2 Thus, it means that the following registration could be cancelled:

8.2.1 The PCIT/CIT can cancel the following registrations granted to a trust or institution:

(a) Final registration or provisional registration granted under section 12AB(1)(a)/(b)/(c);

(b) Final registration granted under section 12AA(1). The erstwhile provision did not cover cases of provisional registration granted under section 12AB(1)(c). Now, the provisional registration granted for the first time can also be cancelled by the authorities.

8.3 As seen from the above, since the assessee has secured the registration u/s 12A of the Act dated 4.6.1992, which was effective till the date of 23.9.2021 and this registration granted u/s 12A cannot be cancelled u/s 12AB(4)(ii) of the Act for the previous year 2020-21 covering the assessment year 2021-22. On the other hand, he could cancel the registration from assessment year 2022-23 onwards u/s 12AB(4)(ii) of the Act. In our opinion, if there is any violation in the previous assessment year 2020-21 relating to the assessment year 2021-22, this cannot be reason to cancel the registration granted for the assessment year 2022-23 to 2026-27 as the assumption of jurisdiction u/s 12AB(4)(ii) of the Act is itself wrong on the reasons discussed herein above. The specific violation committed by the assessee in any of these assessment years is to be considered independently and not the violation committed in assessment year 2021-22 for cancelling the registration granted u/s 12AB of the Act for the assessment year 2022-23 to 2026-27. As such, we make it clear that the Id. PCIT at liberty to pass the fresh order of cancellation independently u/s 12AB(4)(ii) of the Act for these assessment years i.e. 2022-23 to 2026-27, if so advised. Accordingly, we allow this ground taken by the assessee. Ordered accordingly."

21. We find inspiration from the essence of the ratio laid down in the above judgment and observe that in view of the provision of Section 12AA(5) of the Act as the provision of Section 12AA cannot be applied on order after 01.04.2021 the show cause notices issued by the PCIT to the appellant dated 05.07.2023 and 16.08.2023 are, thus, found to be erroneous and therefore liable to be quashed. Once the show cause is found to be non est in the eyes of law, the entire proceeding is naturally found to be on a wrong foundation of law and thus, liable to be set aside. Similarly, invoking the provision of Section 12AB(4) of the Act by the PCIT to cancel registration for specified violation is also not permissible at the same has not seen the light of day prior to 01.04.2022; the same is

therefore, not applicable to Assessment Years 2015-16 to 2021-22 as wrongly has been applied in the case in hand.

22. Thus, having regard to these particular facts and circumstances of the case the issuance of show cause notices proposing cancellation of registration alleging specified violation occurred prior to 01.04.2022 i.e. for Assessment Year 2015-16 to 2021-22 and the final order passed by the Ld. PCIT cancelling registration of the appellant society for Assessment Year 2015-16 to 2021-22 by wrongly invoking the provision of Section 12A r.w.s 12AA and 12AB(4) of the Act is found to be erroneous, bad in law, whimsical, in non application of mind and thus, unsustainable.

23. Before parting we would like to note that the further direction given by the Ld. PCIT to this effect that even if the appellant society is found that specified violation is not in existence then also the consequential cancellation order would continue to operate independently by and under the impugned order dated 31.03.2024 is nothing but colourable exercise of power, not only arbitrary or erroneous but establishes the biasness on the part of the authorities below; by hook or crook the authority was bent upon to cancel the registration of the appellant trust which is evident from such observation and/or decision made by the Ld. PCIT. In fact, on that score alone the order passed by the Ld. PCIT is also found to be bad in law and liable to be quashed. With the aforesaid observations we thus, quash the impugned order passed by the Ld. PCIT.

24. The appeal is, therefore, allowed."

7. Respectfully following the above decision, we are inclined to allow various grounds raised by the assessee in this case and accordingly, we quash the impugned order passed by the Id. PCIT cancelling 12A registration granted to the assessee."

6. Further we find that the co-ordinate bench decision of this Tribunal in the case of Human Welfare Foundation vs DCIT (Exemptions) reported in 174 taxmann.com 650 dated 29.4.2025 had held that PCIT cannot cancel the registration retrospectively. The relevant operative portion of the said order is reproduced hereunder:-

"19. *In view of the above discussions and considering the amendment in section 12AB(4) made by Finance Act, 2022, CBDT circular No. 11 of 2022*

and the judicial pronouncements of various Hon'ble high courts and co-ordinate benches of tribunal, we are of the view that the registration granted u/s 12A cannot be cancelled with retrospective effect from AY 2018-19 when the CIT was granted power to cancel w.e.f. 1.4.2022, thus the same can be done from AY 2022-23. It is also observed that the PCIT has invoked the explanation to section 12AB(4) to hold the assessee committed "specified violations," particularly in terms of application of income and genuineness of the activities. As the Finance Act, 2022, introduced the concept of "specified violations" under section 12AB(4), became effective only from April 1, 2022. Accordingly, order of Id. CIT(E) in cancelling the registration granted u/s 12A of the Act to the assessee society from AY 2018-19 is set aside and registration u/s 12A to the assessee is restored. The ground of appeal No. 1 of the assessee is allowed."

7. In our considered opinion, the expression 'specified violation' and consequential withdrawal of registration was introduced in the Finance Act, 2022 only with effect from 1.4.2022 and could be made applicable only from Assessment Year 2023-24 and onwards and not retrospectively. This view is also clarified by the CBDT Circular No. 23/2022 dated 15.11.2022 vide para 9.3.3. of the Circular.

8. In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, we hold that the Learned PCIT(Central) was not having jurisdiction to pass the impugned order under section 12AB(4) of the Act cancelling the registration of assessee society and also with retrospective effect. Accordingly, the impugned order of Learned PCIT(Central) is hereby quashed. The grounds raised by the assessee are allowed.

9. We find that the Learned PCIT (Central) had passed an identical order and had withdrawn the registration with retrospective effect from Assessment Year 2011-12 onwards in the case of Lala Sher Singh Memorial Jeevan VIgyan Trust Society and from Assessment Year 2014-15

onwards in the case of Florence Nightingale Educational Society. Those orders are also quashed in view of aforesaid decision.

10. In the result, the assessee's appeals are allowed.

Order pronounced in the open court on 16/06/2025.

-Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 16/06/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi