

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD
BEFORE S/SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.708 and 709/Ahd/2025

Asstt.Year : -

Aadijati Vikas Pragati Mahamandal Karanjwel, Vyara Tapi 394 655 PAN : AACTA 7052 N	Vs.	The CIT(Exemption) Vejalpur, Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri Mehul K. Patel, Advocate
Revenue by :	Shri R.P. Rastogi, CIT

सुनवाई की तारीख /Date of Hearing : 25/06/2025
घोषणा की तारीख /Date of Pronouncement: 26/06/2025

आदेश / O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

These two appeals by the assessee are directed against the separate orders passed by the Ld. CIT(Exemption), Ahmedabad [hereinafter referred to as “CIT(Exemption)”] - the order dated 21.12.2024 rejecting the application for registration under section 12AB, and the order dated 21.11.2024 rejecting the application for approval under section 80G(5)(iii) of the Income-tax Act, 1961 [hereinafter referred to as “the Act”]. As both appeals involve common facts and issues, they were heard together and are being disposed of by this common order.

Condonation of Delay

2. At the outset, it is noted that there is a delay of 32 days in filing ITA No. 708/Ahd/2025 (challenging the rejection of registration under section

12AB of the Act) and a delay of 60 days in filing ITA No. 709/Ahd/2025 (challenging the rejection of approval under section 80G(5)(iii) of the Act). The delay has been sought to be explained through two duly notarized affidavits dated 28.03.2025 and 09.06.2025, sworn by Shri Punabhai Dhedabhai Gamit, aged about 66 years, who is the trustee of the assessee trust. From the contents of the affidavits, it is stated that:

- The assessee trust has never previously faced any proceedings under the Income-tax Act, and the trustee, being a senior rural resident, is not conversant with digital procedures, nor does he operate computers or access the e-filing portal.
- The fact of rejection of exemption/registration orders dated 21.12.2024 and 21.11.2024 came to the trustee's knowledge only in March 2025, when they learnt about a similar rejection in the case of another trust at Vyara.
- Upon learning of the rejection, the trustee immediately contacted their Chartered Accountant, who informed them of the rejection orders and advised them to file appeals before the Hon'ble ITAT.
- The delay was thus inadvertent and occurred due to genuine and *bonafide* reasons, rooted in ignorance of the procedural developments rather than any negligence or deliberate inaction.

3. The Departmental Representative (DR) raised no objection to the condonation of the delay, given the facts and circumstances narrated in the affidavits.

4. We have carefully considered the explanation offered by the assessee. It is settled law that while exercising jurisdiction to condone delay under section 253(5) of the Act, the Tribunal is required to adopt a liberal and justice-oriented approach, particularly in matters involving public charitable institutions which function with limited professional infrastructure. Considering the totality of circumstances and the material on record, we find that the explanation offered by the assessee in the affidavits dated 28.03.2025 and 09.06.2025 is both plausible and substantiated by the conduct of the trust. In view of facts mentioned above we are satisfied that this is a fit case for condonation of delay. Accordingly, the delay of 32 days in ITA No. 708/Ahd/2025 and 60 days in ITA No.

709/Ahd/2025 is hereby condoned. The appeals are admitted for adjudication on merits.

Facts of the Case

5. The assessee is an existing public charitable trust registered with the Charity Commissioner. It was granted provisional registration under section 12A on 14.09.2022 for A.Y. 2023-24. The assessee filed an application in Form 10AB for regular registration under section 12AB and also applied for approval under section 80G(5)(iii). The CIT(Exemption) issued notices dated 27.08.2024 and 28.11.2024 seeking documents including the School Permission Certificate. The CIT(Exemption) issued notices dated 14.09.2024 and 29.10.2024 seeking documents in case of application under section 80G(5)(iii) of the Act. The assessee failed to comply with the notices. Consequently, the CIT(Exemption) passed ex parte orders rejecting both applications on the ground of non-compliance.

6. Aggrieved by the orders of the CIT(Exemption), the assessee is in appeal before us raising following grounds:

In case of ITA No. 708/Ahd/2025

1. *That on facts, and in law, the learned CIT (Exemption) has grievously erred in not granting sufficient and reasonable opportunity of hearing and in rejecting the application for registration u/s 12A (1) (ac) (iii) of the Act, vide ex-parte order.*
2. *That on facts and in law, the application made u/s 12A (1) (ac) (iii) of the Act ought to have been granted by learned CIT (Exemption) as prayed for.*
3. *The appellant craves liberty to add, alter, amend any ground of appeal.*

In case of ITA No. 709/Ahd/2025

1. *That on facts, and in law, the learned CIT (Exemption) has grievously erred in not granting sufficient and reasonable opportunity of hearing and in rejecting the application for approval u/s 80G(5) (iii) of the Act, vide ex-parte order.*

2. That on facts and in law, the application made u/s 80G (5) (iii) ought to have been granted by^[1]_{SEP} learned CIT (Exemption) as prayed for.
3. The appellant craves liberty to add, alter, amend any ground of appeal.

7. During the course of hearing before us, the Authorised Representative (AR) for the assessee reiterated the facts and agreed that the assessee had failed to respond to the notices issued by the CIT(Exemption) primarily due to its lack of digital literacy and procedural knowledge. The AR further submitted that upon learning of the rejection, the assessee took immediate steps to compile and submit all necessary documents in support of its case. The documents filed include the registration certificate with the Charity Commissioner, the English and Gujarati copies of the trust deed, the provisional registration granted under section 12A, and the audited financial statements for the financial years 2021-22, 2022-23, and 2023-24. The AR prayed that one more opportunity may be granted to the assessee to present its case on merits before the CIT(Exemption), especially in light of the fact that the rejection orders were passed ex parte and the assessee is otherwise an existing and functioning public charitable trust.

8. The Learned DR fairly submitted that he has no objection if the matter is remanded back to the file of the CIT(Exemption) for fresh adjudication, particularly considering the supporting material now placed on record and the overall facts and circumstances of the case.

9. We have perused the affidavits, documents filed, and the orders passed by the CIT(Exemption). The impugned orders have been passed solely on the ground of non-compliance. There is no finding by the CIT(Exemption) disbelieving the genuineness of the trust or doubting its charitable nature. In our considered view the failure to comply was *bonafide* and not wilful. The assessee has now furnished all the relevant documents including registration with Charity Commissioner, trust deed, and audited accounts. The *ex parte* rejection of the application without considering the merits violates principles of natural justice. The provisions of section 12AB

and 80G are beneficial in nature, and registration cannot be denied solely on procedural lapses when the substance is otherwise evident. Accordingly, in the interest of justice, both the orders deserve to be set aside and the matter restored to the file of the CIT(Exemption) for fresh adjudication.

However, we also find it appropriate to impose a cost of Rs.5,000/- (Rupees Five Thousand only) upon the assessee as a deterrent against procedural indifference. The said cost shall be deposited by the assessee to the credit of the Income Tax Department within 30 days from the date of receipt of this order and proof of payment shall be filed before the Ld.CIT(Exemption).

10. In view of the foregoing discussion, the orders passed under section 12AB dated 21.12.2024 and under section 80G(5)(iii) dated 21.11.2024 are set aside. Both matters are restored to the file of CIT(Exemption) for fresh adjudication in accordance with law, after providing adequate opportunity of hearing. The CIT(Exemption) shall consider not only the documents filed before him earlier but also the documents filed before us as well as any additional evidence or clarification that may be requisitioned.

The assessee shall cooperate fully and furnish the required documents in a timely manner.

11. In the result, both appeals are allowed for statistical purposes,

Order pronounced in the Court on 26th June, 2025 at Ahmedabad.

Sd/-

**(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

Sd/-

**(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

Ahmedabad, dated 26/06/2025

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