

**IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.2601/MUM/2025
(A.Y. 2025-26)**

Ramavtar Educational Trust , Room No. 2, Cutting No. 5, Girija Sankar Patel Chawl, Kurar Village, Malad (East), Mumbai - 400 097, Maharashtra	v/s. बनाम	Commissioner of Income Tax (Exemptions), Mumbai, Ward – Cumballa Hill, MTNL TE Building, Peddar Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai – 400026, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AADTR6649B		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Bhupendra Shah
Respondent by :	Shri Uma Shankar Prasad (CIT DR)

Date of Hearing	16.06.2025
Date of Pronouncement	17.06.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal is filed by the assessee Trust against the order passed by the Learned Commissioner of Income-tax (Exemptions), Mumbai [hereinafter referred to as “CIT(E)”] pertaining to order passed u/s. 12AB of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for the Assessment Year [A.Y.] 2025-26.



2. The grounds of appeal are as under:-

GROUND NO. 1: DENIAL OF NATURAL JUSTICE

Based on the facts and circumstances of the case, and in accordance with the law, the learned CIT (Exemptions), Mumbai erred in not granting sufficient opportunity to the appellant to comply with the notices issued citing that the application was getting time barred. Such action of the learned CIT (Exemptions) is against the principles of natural justice.

GROUND NO. 2: UNJUSTIFIED DENIAL OF REGISTRATION U/S 12A

Based on the facts and circumstances of the case, and in accordance with the law, the learned CIT (Exemptions), Mumbai denied the registration u/s 12A to the appellant, which is unjustified, as the appellant trust is an educational institution which imparts education undisputedly.

GROUND NO. 3: NON-CONSIDERATION OF DOCUMENTS SUBMITTED

Based on the facts and circumstances of the case, and in accordance with the law, the learned CIT (Exemptions), Mumbai erred in rejecting the application for 12A registration despite the appellant having submitted the trust deed and BPT Certificate along with the application, which prove the educational activities being undertaken by the appellant trust.

3. At the outset, it is noticed that the present appeal is delayed by 269 days. In this regard, a condonation application with an affidavit has been submitted by the Trust stating that it had applied for registration u/s 12A in Form No. 10AB on 22.11.2023. The application was rejected vide rejection order dt. 21.05.2024 (“first rejection order”). The Trust again applied for registration u/s 12A on 13.06.2024 under the bonafide



belief that the CBDT Circular No. 7/2024 dt. 25.04.2024 applied to it. The second application was also rejected vide order dt. 20.12.2024 (“second rejection order”) on the ground of this application being “non-maintainable” as the CBDT circular did not apply to the Trust. It filed an appeal against the second rejection order dt. 20.12.2024 instead of the first rejection order dt. 21.05.2024. The appeal reference no. is ITA 1082/MUM/2025. It is admitted that it was a clerical error as the second rejection was on non-maintainable grounds. However, the appeal against the first rejection order dt. 21.05.2024 was not filed under genuine belief that the second application was valid and proper and that 12A registration would be granted. This has resulted in a delay in filing appeal against the first rejection order dt. 21.05.2024. Therefore, the appeal filed against the second rejection order dt. 20.12.2024 was withdrawn, and the petitioner filed this an appeal against the first rejection order dt. 21.05.2024. This petition has been filed, along with an affidavit in its support. The assessee Trust requested to accept this petition and condone the delay.

3.1 We have carefully considered the above facts. During hearing the ld.AR has also placed the order passed by the coordinate bench in **ITA No.1082/Mum/2025 dated 21.04.2025** whereby its request for withdrawal of ‘second application’ has been accepted. On careful



consideration of the submissions of the assessee, we are of the considered opinion that the delay in filing of the present appeal was not intentional. Such a bonafide mistake needs to be condoned. In this connection reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in **Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC)** that *“ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs serious risk.”* In view of the facts as stated aforesaid and the judgement of the hon'ble Apex Court(supra), we therefore, condone the delay.

4. Brief facts of the case are that the assessee Trust had made an application in Form no.10AB for registration u/s 12AB of the Act. The Id.CIT(E) called for various details to examine relevant facts regarding



genuineness of its activities and compliance to various requirements. Notices were issued in this regard but none of them were complied with which ultimately forced the ld.CIT(E) to pass an ex parte order rejecting its application.

5. It is observed that the ld.CIT(E) rejected its application solely on the ground of non compliance and failure of the assessee to furnish relevant details as required by him. In absence thereof, he could not adjudicate the issues involved. However, it is equally true that despite notices issued by the CIT(E), no substantive explanation was submitted by the assessee. The principles of natural justice operate both ways, while the Revenue authorities are required to provide a reasonable opportunity of being heard, the taxpayer is equally obligated to cooperate with the authorities and utilize the opportunities extended.

6. Before us, the ld.AR made a request for remanding the appeal back to the ld.CIT(E) committing to make due compliance before him. The ld.CIT(DR) did not vehemently oppose the plea. Accordingly, in the interest of principles of natural justice, we are of the considered view that the matter should be verified and revisited at the level of ld. CIT(E) and accordingly, the matter is remanded back to him for *de novo*



adjudication while applying the principles of natural justice after affording sufficient opportunity of being heard to the assessee.

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

Order pronounced in the open court on 17.06.2025.

Sd/-

PAWAN SINGH

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 17.06.2025

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

