

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

(HYBRID HEARING)

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.Nos. 70 & 71/VIZ/2025

Andhra University Alumni Association 1 st Floor, Science & Technology Building Andhra University Visakhapatnam – 530003 Andhra Pradesh [PAN:AAEAA7037Q] (अपीलार्थी/ Appellant)	v.	Income Tax Officer (Exemption Ward) Income Tax Office Infinity Tower, Shankarmatham Road Santhipuram, Visakhapatnam – 530016 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	26.06.2025
घोषणा की तारीख/Date of Pronouncement	:	30.06.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. These appeals are filed by the assessee against rejection order passed by the Learned Commissioner of Income Tax (Exemption), Hyderabad [hereinafter in short "Ld.CIT(E)"] vide respective DIN & Notice No. as stated below: -

ITA No.	DIN & Notice No.	Dated
ITA No. 70/VIZ/2025	ITBA/EXM/F/EXM45/2024-25/1070707680(1)	28.11.2024
ITA No. 71/VIZ/2025	ITBA/EXM/F/EXM45/2024-25/1070707894(1)	28.11.2024

2. Since the grounds raised by the assessee in both these appeals are identical in nature, these appeals are being clubbed and a consolidated order being passed. We now take up the appeal in ITA No. 70/VIZ/2025 as a lead appeal.

ITA NO. 70/VIZ/2025

3. Brief facts of the case are, assessee being an association having a registration under section 12A of the Act before 01.04.2021. The assessee filed an application in form 10AB seeking registration under section 12AB of the Act. The Ld.CIT(E) issued notices to the assessee on 10.06.2024 and 01.07.2024 in respect of proceedings under section 12A(1)(ac)(iii) of the Act to produce the copy of Memorandum of Association/Trust Deed for verification and to furnish a detailed reply on the specific information called for in the said notice. In response, assessee has submitted some of the details as called for. Subsequently, another notice dated 26.11.2024 was issued to the assessee to submit the full information as per the notices issued. In response, assessee furnished its reply in compliance to the notice issued by the Ld.CIT(E). On perusal of submission of the assessee, it was observed by the Ld.CIT(E) that the assessee ought to have applied in the Form 10A by selecting the section Code “12A(1)(ac)(i)” instead of “12A(1)(ac)(iv)”. Accordingly, Ld.CIT(E) rejected

the application filed in Form-10AB for registration under section 12AB of the Act as withdrawn and also cancelled the provisional registration granted in Form 10AC dated 24.03.2023.

4. Aggrieved by the order of the Ld.CIT(E), assessee is in appeal before us by raising following grounds of appeal: -

“1. The order of the learned Commissioner of Income Tax (Exemption), Hyderabad is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Exemption) is not justified in rejecting the application filed by appellant in Form no.10AB for Renewal of Registration u/s 12AB of the Act.

3. The learned Commissioner of Income Tax (Exemption) is not justified in cancelling the Provisional Registration granted by the CPC vide order dated 24.03.2023.

4. Any other ground that may be urged at the time of appeal hearing.”

5. The only grievance emanating from the above grounds is with respect to the rejection of Registration under section 12AB of the Act by the Ld.CIT(E).

6. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee while filing form 10A has inadvertently quoted wrong clause. However, Centralised Processing Centre has issued the provisional registration quoting the wrong clause selected by the assessee. When the assessee sought to apply for permanent registration under section 12AB by filing Form 10AB wherein the correct clause was quoted by the assessee. However, the Ld.CIT(E) rejected the application for permanent registration citing that the assessee has quoted wrong clause while filing

Form 10A. Ld.AR further pleaded that this being an inadvertent clerical error while making the application online, an opportunity must be provided to the assessee to correct the clerical error and to apply afresh with the selection of the correct clause under section 12A(1)(ac) of the Act. He therefore pleaded that one more opportunity may be provided to the assessee to correct the technical error. Ld.AR relied on the following cases:-

- a. *LTCL Palanaippa Charities Trust v. CIT (E) in ITA No. 575 & 576/CHNY/2023 dated 26.12.2023.*
- b. *Mandava Foundation v. ITO in ITA No. 47/HYD/2024 dated 15.03.2024.*

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the impugned order and submitted that the Ld.CIT(E) justified in rejecting the application due to incorrect quoting of provisions.

8. We have heard rival contentions and perused the material available on record. There is no dispute that the assessee is duly registered under section 12AA of the Act and has filed Form 10AB seeking registration under section 12AB of the Act. The only basis for rejection by the Ld.CIT(E) is the assessee quoted section “12A(1)(ac)(vi)” instead of “12A(1)(ac)(iii)” while filing Form 10A, wherein in this case assessee was holding registration under section 12AA of the Act issued by the department on or before 01.04.2021. This being a mere technical or procedural lapse, and the substance of the application cannot be disregarded solely on such ground. It is also a well settled principle that

procedural mistake should not defeat substantial rights especially in cases involved registration of charitable institutions which otherwise meet the conditions stipulated under the Act. The Hon'ble Supreme Court in the case of CIT v. G.M.Mittal Stainless Steel (P) Ltd. [263 ITR 255 (SC)] has held the procedural lapses should not come in the way of granting substantive relief, provided the assessee is otherwise eligible. Various judicial pronouncements have held that the procedural defects or clerical errors should not defeat the substantive rights particularly in the context of welfare and beneficial legislations like Registration 12A of the Act.

9. The assessee in the present case has already been granted Registration under section 12AA of the Act appears to have fulfilled all the substantive conditions prescribed under section 12AA of the Act. Therefore, rejection of the application without affording opportunity to rectify the error is not in consonance with the principles of natural justice. In view of the foregoing, we hold that the rejection of the assessee application is not justified and therefore we set-aside the impugned order and restore the matter to the file of the Ld.CIT(E) with a direction to examine the assessee's application on merits after allowing the assessee to rectify the procedural errors. Ld.CIT(E) shall dispose of the application afresh after giving due opportunity of hearing to the assessee. Thus, the appeal is allowed for statistical purposes.

10. In the result, appeal is allowed for statistical purposes.

ITA NO. 71/VIZ/2025

11. Since the assessee is same, the facts as extracted in ITA No. 70/VIZ/2025 shall be similar, except for the fact that the application in this case made for the purpose of registration under section 80G of the Act.

12. Assessee has raised following grounds in its appeal: -

“1. The order of the learned Commissioner of Income Tax (Exemption), Hyderabad is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Exemption) is not justified in rejecting the application filed by appellant in Form no.10AB for Renewal of Registration u/s 80G of the Act.

3. The learned Commissioner of Income Tax (Exemption) is not justified in cancelling the Provisional Registration granted by the CPC vide order dated 24.03.2023.

4. Any other ground that may be urged at the time of appeal hearing.”

13. The only grievance emanating from the above grounds is with respect to the rejection of Registration under section 80G of the Act by the Ld.CIT(E).

14. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee while filing form 10A has inadvertently quoted wrong clause. However, Centralised Processing Centre has issued the provisional registration quoting the wrong clause selected by the assessee. When the assessee sought to apply for permanent registration under section 80G by filing Form 10AB wherein the correct clause was quoted by the assessee.

However, the Ld.CIT(E) rejected the application for permanent registration citing that the assessee has quoted wrong clause while filing Form 10AB. Ld.AR further pleaded that this being an inadvertent clerical error while making the application online, an opportunity must be provided to the assessee to correct the clerical error and to apply afresh with the selection of the correct clause under section 80G of the Act. He therefore pleaded that one more opportunity may be provided to the assessee to correct the technical error. Ld.AR relied on the following cases: -

- c. LTCL Palanaippa Charities Trust v. CIT (E) in ITA No. 575 & 576/CHNY/2023 dated 26.12.2023.*
- d. Mandava Foundation v. ITO in ITA No. 47/HYD/2024 dated 15.03.2024.*

15. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the impugned order and submitted that the Ld.CIT(E) justified in rejecting the application due to incorrect quoting of provisions.

16. We have heard rival contentions and perused the material available on record. There is no dispute that the assessee is duly registered under section 12AA of the Act and has also filed for registration under section 12AB of the Act. The Assessee also filed Form 10AB seeking registration under section 80G of the Act. The only basis for rejection by the Ld.CIT(E) is the assessee quoted section “80G(5)(i)” instead of “80G(5)(iv)” wherein in this case assessee was holding registration under section 80G of the Act dated 15.12.2016 issued

by the department. This being a mere technical or procedural lapse, and the substance of the application cannot be disregarded solely on such ground. It is also a well settled principle that procedural mistake should not defeat substantial rights especially in cases involved registration of charitable institutions which otherwise meet the conditions stipulated under the Act. The Hon'ble Supreme Court in the case of CIT v. G.M. Mittal Stainless Steel (P) Ltd. [263 ITR 255 (SC)] has held the procedural lapses should not come in the way of granting substantive relief, provided the assessee is otherwise eligible. Various judicial pronouncements have held that the procedural defects or clerical errors should not defeat the substantive rights particularly in the context of welfare and beneficial legislations like Registration 80G of the Act.

17. The assessee in the present case has already been granted Registration under section 12AA of the Act and was also holding Registration under section 80G of the Act, appears to have fulfilled all the substantive conditions prescribed under section 80G of the Act. Therefore, rejection of the application without affording opportunity to rectify the error is not in consonance with the principles of natural justice. In view of the foregoing, we hold that the rejection of the assessee application is not justified and therefore we set-aside the impugned order and restore the matter to the file of the Ld.CIT(E) with a direction to examine the assessee's application on merits after allowing the assessee to rectify the procedural errors. Ld.CIT(E) shall dispose of the

application afresh after giving due opportunity of hearing to the assessee. Thus, the appeal is allowed for statistical purposes.

18. In the result, appeal is allowed for statistical purposes.

19. To sum-up, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 30th June, 2025.

Sd/-
(रवीश सूद)
(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 30.06.2025

Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Andhra University Alumni Association**
1st Floor, Science & Technology Building
Andhra University
Visakhapatnam – 530003
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer (Exemption Ward)**
Income Tax Office
Infinity tower, Shankarmatham Road
Santhipuram, Visakhapatnam – 530016
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापट्टणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam