

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.No.208/VIZ/2025
(निर्धारण वर्ष/ Assessment Years: 2022-23 to 2026-27)**

BRITG FOUNDATION 22-14-12, Kotlamadappa Street Vizianagaram H.O. Vizianagaram – 535002 Andhra Pradesh [PAN:AAETB5357K] (अपीलार्थी/ Appellant)	v.	Commissioner of Income Tax (Exemptions) Aaykar Bhawan, Opp. L.B. Stadium Basheer Bagh, Hyderabad – 500004 Telangana (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Sanjeevarao, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	07.07.2025
घोषणा की तारीख/Date of Pronouncement	:	10.07.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against rejection order passed by the Learned Commissioner of Income Tax (Exemption), Hyderabad [hereinafter in

short “Ld.CIT(E)”] vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-25/1070123800(1) dated 05.11.2024.

2. At the outset, it is noticed from the appeal record that there is a delay of 90 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. AR drew our attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under: -

“1. It is respectfully submitted that the orders of the Commissioner of Income-tax, (Exemption), Hyderabad dated 05.11.2024.

2. The order is received on 05.11.2024 through online. So, the appeal should have been filed on or before 04.01.2025.

3. The appeal before this Hon'ble Tribunal was filed on 04.04.2025 which is filed beyond the period of limitation. The delay is of 90 days.

4. The delay is occurred due to confusion arose with regard to filing of appeal, before whom the said appeal lies against the dismissal orders passed by the Learned Commissioner of Income-tax (Exemption), Hyderabad, on consulting the Chartered Accountant, the appeal was filed on 04.04.2025.

5. For the reasons stated above, it is humbly submitted that non-filing of the appeal within the stipulated time is neither willful nor deliberate but for the circumstances submitted above. Hence, it is prayed that the Honourable Tribunal, may kindly be pleased to consider the above facts and may kindly be pleased to condone the delay of 90 days in filing the appeal and may kindly be pleased to direct the office to admit the appeal, in the interest of justice, otherwise the petitioner/ appellant will be put to irreparable loss and severe hardship.”

3. On perusal of the contents of the affidavit filed by the assessee as well as the submission of the Ld. AR, we find that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time

limit with a delay of 90 days. Therefore, we hereby condone the delay of 90 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

4. Brief facts of the case are, assessee filed an e-application in Form 10AB seeking registration under section 12AB of the Act. The Ld.CIT(E) issued notice to the assessee on 08.06.2024 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. Ld.CIT(E) noticed from the submissions made by the assessee that Centralized Processing Centre, Bangalore (in short “CPC”) has issued the Form 10AC dated 08.02.2022 by granting the registration u/s. 12(A)(ac)(i) of the Act for a period of 5 years commencing from A.Y.2022-23 to A.Y.2026-27, though the assessee was not holding existing registration under section 12A issued by the department on or before 31.03.2021, and the assessee should have applied the Form 10A by opting the section code 12A(1)(ac)(vi) instead of 12A(1)(ac)(i) of the Act. In this regard, a show cause notice was issued to the assessee on 07.10.2024. In response, assessee submitted its reply stating that assessee chosen the wrong section inadvertently while making the application in Form 10A and also confirmed that they did not have existing registration under section 12AA of the

Act before 01.04.2021 and requested to grant re-registration under section 12AB of the Act. 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)(vi)” instead of “12A(1)(ac)(i)”. Accordingly, Ld.CIT(E) rejected the application filed in Form-10AB for registration under section 12AB of the Act as infructuous and also cancelled the exemption claimed w.e.f. A.Y. 2022-23 to A.Y. 2026-27.

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

“1. The Learned CIT (Exemption) erred in rejecting the application filed in Form 10AB due to incorrect selection of section code 12A(1)(ac)(i) instead of 12A(1)(ac)(vi), despite the error being procedural and clarified by the appellant.

2. The cancellation of registration granted earlier via Form 10AC dated 08.02.2022, without granting the appellant a proper opportunity of being heard, violates principles of natural justice.

3. The rejection of the Form 10AB application and the consequential cancellation of earlier registration is grossly disproportionate, especially given the bona fide conduct and compliance history of the appellant.

4. The Commissioner failed to exercise powers to rectify an apparent mistake, even though the Income-tax Act allows for rectification of such mistakes.

5. The appellant had a legitimate expectation of continued registration, and the cancellation has severely hampered the functioning of a bona fide charitable institution.

6. The impugned order contradicts CBDT circulars and judicial precedents which uphold that procedural lapses should not defeat substantive rights.

7. The rejection and cancellation severely harm the public interest served by the charitable work of the appellant organization.”

6. 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).

7. 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 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. He therefore pleaded that one more opportunity may be provided to the assessee to correct the technical / clerical 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.*

8. 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.

9. We have heard rival contentions and perused the material available on record. Assessee 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)(i)” while filing Form 10A. 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 involving 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. 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.

Order pronounced in the open court on 10th July, 2025.

Sd/-
(रवीश सूद)
(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 10.07.2025

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 : **BRITG FOUNDATION**
22-14-12, Kotlamadappa Street
Vizianagaram H.O.
Vizianagaram – 535002
Andhra Pradesh
2. राजस्व/ The Revenue : **Commissioner of Income Tax (Exemptions)**
Aaykar Bhawan, Opp. L.B. Stadium
Basheer Bagh, Hyderabad – 500004
Telangana
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam