

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No. 830 & 924/Ind/2024

Devi Anusuiya Vidya Sansthan, 1812, AB Road, Lasudia Mori, Dewas Naka, Indore	<u>बनाम/</u> Vs.	CIT Exemption Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AADCD8391H		
Assessee by	Shri Pranay Goyal, AR	
Revenue by	Shri Anoop Singh, CIT-DR	
Date of Hearing	17.07.2025	
Date of Pronouncement	18.07.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

The captioned two (2) appeals, *first* being ITA No. 830/Ind/2024 relating to registration u/s 12AB and *second* being ITA No. 924/Ind/2024 relating to approval u/s 80G, are filed by assessee against two (2) separate orders dated 27.09.2024 and 23.10.2024 passed by learned Commissioner of Income-Tax (Exemption), Bhopal ["CIT(E)"] by which the assessee's applications for grant of final registration u/s 12AB & final approval u/s

80G of Income-tax Act, 1961 ["the act"] have been rejected and the provisional registration u/s 12AB & provisional approval u/s 80G granted earlier have also been cancelled. The assessee has raised the grounds as mentioned in Appeal Memos (Form No. 36).

2. The background facts leading to present appeal are such that the assessee is a section 25 company incorporated on 15.04.2011. As informed by Ld. AR for assessee, the assessee was having registration u/s 12A & 80G granted by Income-tax Department. Although such registration was in force and never cancelled, the assessee re-applied to Income-tax Department under new provisions of Income-tax Act, 1961 effective from 01.04.2021 and obtained provisional registration u/s 12AB and provisional approval u/s 80G vide two separate orders dated 10.03.2022, copies of orders issued by Income-tax Department are filed at Pages 13-17 of Paper-Book. Thereafter, the assessee filed two separate applications to CIT(E) for grant of final registration u/s 12AB and final approval u/s 80G but those applications have been rejected vide two separate orders dated 27.09.2024 and 23.10.2024 passed by CIT(E). Aggrieved, the assessee has come in these appeals before ITAT.

3. Since these appeals involve matters which are inter-related, they were heard together and are being decided by this common order. We would first take up appeal relating to registration u/s 12AB and thereafter appeal relating to approval u/s 80G.

ITA No. 830/Ind/2024 – relating to registration u/s 12AB:

4. Ld. AR for assessee carried us to the impugned order and demonstrated that the CIT(E) issued notice dated 04.09.2024 raising five (5) queries, the notice so issued is re-produced by CIT(E) in Para 2 of impugned order. However, the assessee could not file the details/documents required by CIT(E) on the appointed date and hence the CIT(E) has rejected assessee's application. Ld. AR submitted that the assessee has now filed all required details/documents at Pages 136 to 313 of Paper-Book. Ld. AR thereafter narrated that the CIT(E) cannot reject assessee's application for the technical reason of non-filing of details/documents but, however, after some deliberations agreed that the present case may be restored at the level of CIT(E) for a fresh adjudication after examining the evidences now filed by assessee. He submitted that the assessee is ready to file any other detail/information/document also as the CIT(E) may require.

5. Ld. DR for revenue submitted that there is no infirmity in the order passed by CIT(E). He submitted that the CIT(E) has given opportunity to assessee but it is the assessee who did not avail that opportunity, therefore in the situation the CIT(E) could not get necessary satisfaction for granting registration. Hence, the CIT(E) has rightly rejected assessee's application. Ld. DR further contended that the evidences now filed by assessee are new and the assessee has not filed any application under Rule 29 of Income-tax (Appellate Tribunal) Rules, 1963 for admission of such evidences, therefore

the assessee's evidences must be rejected. He finally contended that the impugned order passed by CIT(E) must be upheld.

6. We have considered the rival submissions of both sides. On perusal of impugned order, we find that the CIT(E) issued notice dated 06.08.2024 and the assessee filed a reply dated 13.08.2024. Thus, the assessee does not have non-compliant attitude. Thereafter, the CIT(E) issued notice dated 04.09.2024 followed by notices dated 11.09.2024 and 18.09.2024 to which the assessee replied but the assessee sought adjournments as some more time was required for submission of details/documents. Thereafter, the CIT(E) passed impugned order on 27.09.2024 rejecting assessee's application. Thus, the assessee's application had been rejected for want of details/documents. The assessee has now filed all those evidences and willing to represent this case. Therefore, in the interest of justice, we feel it appropriate to give one more opportunity to assessee to represent its case before CIT(E).

7. So far as the technical point raised by Ld. DR for revenue that there is no application filed by assessee in terms of Rules 29 of Income-tax (Appellate Tribunal) Rules, 1963 is concerned, we firstly refer the said Rule 29 reading as under:

"29. Production of additional evidence before the Tribunal - The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable

it to pass orders or for any other substantial cause, or, if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.”

7.1 Thus, the basic ingredient for exercising powers under Rule 29 for admission of additional evidence is that Tribunal should come to the conclusion that a particular document would be necessary for consideration to enable it to pass orders or for any other substantial cause. The document can be brought to the notice of Tribunal by either party. Needless to mention that the Tribunal is final fact finding body and, therefore, the powers have been conferred on it u/s 131 and Rule 29 to enable it to record a factual finding after considering the entire evidence. Needless further to mention that the ITAT has been given wide powers for dispensation of justice.

7.2 During hearing, we posed a specific query to the Ld. DR for revenue as to whether it is necessary in Rule 29 to make a format written application? The Ld. DR could not show any such requirement. At this stage, we may make a useful reference to Para No. 10 of the decision of Third Member in ***Mascon Global Ltd. Vs. ACIT 37 SOT 202 (Chennai) (TM)***:

“10. The other objection of the Ld. Judicial Member is that there is no formal application under Rule 29 of the ITAT Rules for admission of the additional evidence. On going through the Rule, I do not find any requirement therein that there should be a formal written application before the Tribunal for

admission of the additional evidence. These are rules of procedure and, in a fit case, and depending on the circumstances, it would be open to the Tribunal to admit additional evidence when it is produced in Court and an oral application is made. I do not think that there is any hard and fast rule in this behalf and it should be left to the discretion of the Bench. I am unable to say that the Ld. Accountant Member exercised such discretion improperly. Rule 29 permits the Tribunal to admit the additional evidence for any substantial cause. Apparently, the Ld. Accountant Member has admitted the additional evidences on this ground with which I am unable to disagree. The intention behind the Rule is that substantial justice should be done and the interest of justice should be the overriding consideration. Having this in mind, I hold that there is no error in the Ld. Accountant Member admitting the additional evidence and sending it to the CIT for examination and decision."

7.3 Therefore, in view of above discussion, the objection raised by Ld. DR against admission of additional evidences filed by assessee is rejected.

8. In the final result, we agree to remand this matter to the file of CIT(E) and we do so. We direct the CIT(E) to give necessary opportunities to the assessee to make representation including filing of additional evidences placed before us in the Paper-Book and also any other evidence as the assessee may choose to file during the course of proceeding before CIT(E). The CIT(E) shall consider assessee's entire submission judiciously and pass order afresh in accordance with law.

ITA No. 924/Ind/2024 – relating to approval u/s 80G:

9. On perusal of impugned order, we find that the CIT(E) has rejected assessee's application for grant of approval u/s 80G for the reason that the assessee's application for grant of registration u/s 12AB was rejected and hence the assessee was not having valid registration u/s 12AB which is a pre-requisite for approval u/s 80G. Since we have remanded the assessee's preceding appeal for registration u/s 12AB to the file of CIT(E), this appeal is also remanded to the file of CIT(E) in the very same terms for adjudication afresh.

10. Resultantly, these appeals are allowed for statistical purposes.

Order pronounced in open court on 18/07/2025

Sd/-

(PARESH M JOSHI)
JUDICIAL MEMBER
Indore

दिनांक /Dated : 18/07/2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore