

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B”BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.79/Bang/2025
Assessment Year : N.A

Shri Gujrati Vaishnav Seva Trust Alake Behind, Sahyog Complex Near Gokarnath Temple Alake Mangalore 575 003 PAN NO : AAHTS1233N	Vs.	CIT (Exemptions) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Balram R Rao, A.R.
Respondent by	:	Shri E Shridhar, D.R.

Date of Hearing	:	06.05.2025
Date of Pronouncement	:	28.07.2025

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the Id. CIT (E), Bangalore dated 09/12/2024 vide DIN & Order No. ITBA/EXM/F/EXM45/2024-25/1071030477(1) cancelling the registration u/s 12AB of the Income Tax Act, 1961 (in short “The Act”).

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case the learned CIT (exemption), erred in passing the order in the manner in which she did.
2. Erred in rejecting the application in form 10 (A) (B) of the Act, by holding that the appellant had not made substantial amount of expenditure towards the object of appellant, nor had it submitted any proof or evidence of activity.
3. For these case and such other grounds that may be urged at the time of hearing the appellant prayed that the appeal may please be allowed to meet the ends of justice.

3. The brief facts of the case are that the assessee Trust submitted an application in Form 10AB on 29.06.2024, seeking registration under Section 12AB of the Act. On receipt of the application, the Id. CIT(E) assigned the case to the Jurisdictional Assessing Officer (JAO) for verification. On perusal of the submissions made by the assessee, both Range Head and JAO did not recommend for registration, citing the following reasons:-

- o The submissions made were incomplete and a detailed activity note was missing.
- o The assessee mentioned education as one of their object but no application related to education seen in the financials.
- o Another objective of assessee was religious, however due to lack of supporting documents the AO could not ascertained the integrity of expenses.

- o The area of operation clause was missing in the trust deed and occupation of trustee was plainly mentioned as business.
- o Due to lack of details as above, the AO could not find the vouchers produced by the assessee as genuine.

3.1 The ld. CIT(E) however observed that the assessee trust has not made substantial amount of expenditure towards the objects and assessee has not submitted any proof or evidence of activities and accordingly held that the assessee has not commenced its activities towards the attainment of the object. Hence, rejected the application in form 10AB dated 29.6.2024 filed for registration under 12AB of the Act.

4. Aggrieved by the order of ld. CIT(E), the assessee trust has filed the present appeal before this Tribunal.

5. The ld. A.R. of the assessee submitted that the ld. CIT(E) erred in observing that the assessee has not commenced its activities towards the attainment of the objects. The ld. A.R. of the assessee also submitted that assessee had produced all the necessary documents/details as required for registration as the ld. CIT(E) herself observed in the order. Further, ld. A.R. submitted that it is only the genuineness of the activity and not the quantum of expenditure which are relevant for granting registration u/s 12AB of the Act.

6. The ld. D.R. on the other hand, supported the order of the ld. CIT(E).

7. We have heard the rival submissions and perused the materials available on record. On going through the order of ld. CIT(E), we find that the ld. Jurisdictional assessing officer (JAO) observed that due to lack of sufficient supporting documents he

could not ascertain the integrity of expenses shown in the financials. Further the AO could not find the vouchers produced by the assessee as genuine. However, the ld. CIT(E) observed that in the present case, the assessee submits all the necessary documents / details as required for registration u/s 12AB of the Act. Therefore, we do not agree with the contention of the ld. CIT(E) that the assessee had not commenced its activity towards the attainment of the objects. We take a note of the fact that the main judiciousness in rejecting the registration of the assessee trust is that the assessee had not made substantial amount of expenditure towards the object. Further, there is not even a whisper about any non-genuineness of the activities carried on by the assessee trust. The AO has only doubted the integrity of expenses without any adverse material on record. We are of the considered opinion that it is not the quantum of expenditure which is relevant for the purpose of granting registration but in fact the genuineness of the activity of the trust in accordance with the object of the trust. Under the similar facts & circumstances, this coordinate Bench of ITAT in the case of **Dhwani Shristi Foundation Vs. CIT(E)**, Bengaluru reported in **[2025] 175 taxmann.com 454** has held as under:-

“7. We have heard the rival submissions and perused the materials available on record. On going through the order of ld. CIT(E), we find that the ld. Jurisdictional assessing officer (JAO) observed that assessee had received general donation of Rs.48,40,444/- along with service income of Rs.2,09,000/- and interest income of Rs.1,92,024/-. Further, the ld. JAO also observed that medical relief expenses of Rs.5,90,512/- were incurred towards the object of the trust & could not find it to be non-genuine. Therefore, we do not agree with the contention of the ld. CIT(E) that the assessee had not commenced its activity towards the attainment of the objects. Further, it is an undisputed fact that the assessee trust was registered as a public trust only on 28.6.2023. Therefore, we agree with the contention of the ld. A.R. of the assessee that since it was the first year of its operation, the assessee

trust could not spend towards the large scale activity and accordingly the assessee trust had invested Rs.40 lakhs in the fixed deposits as per the modes prescribed in section 13(5) of the Act in order to spend for future applications. Further, we also take a note of the fact that the ld. CIT(E) on the one hand, herself observed that the assessee has submitted all the necessary documents/details as required for registration u/s 12AB of the Act and on the other hand, observed that assessee has not submitted any proof or evidence of activities, which in our opinion is contradictory in itself. We take a note of the fact that the main judiciousness in rejecting the registration of the assessee trust is that the assessee had not made substantial amount of expenditure towards the object. We are of the firm opinion that for the purpose of granting registration, the ld. CIT(E) shall call for such documents or information or make such inquiry as she thinks necessary in order to satisfy herself about the twin object:-

- (a) the genuineness of the activity of the trust and*
- (b) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its object.*

7.1 In the present case, the ld. CIT(E) has observed that the assessee had submitted all the necessary documents/details as required for registration u/s 12AB of the Act. Further, there is not even a whisper about any non-genuineness of the activities carried on by the assessee trust. The only allegation by the ld. CIT(E) is that the assessee had not made substantial amount of expenditure towards the object of the Trust. We are of the considered opinion that it is not the quantum of expenditure which are relevant for the purpose of granting registration but in fact the genuineness of the activity of the trust in accordance with the object of the trust is relevant for granting registration. Therefore, we agree with the contention of the ld. A.R. of the assessee that it is only the genuineness of the activity and not the substantial amount of expenditure which are relevant for granting registration u/s 12AB of the Act. In the present case, it is an undisputed fact that the assessee had already commenced its activity towards the attainment of the object as the assessee trust had incurred the medical relief expenses towards attainment of its objects as observed by the JAO & ld. CIT(E). Since it was the

first year of its operation, the assessee was not able to spend towards the large scale activity and hence, filed Form No. 10 on 30.9.2024 vide ack. No.548944470300924 for accumulation of Rs.38,50,000/- for the purposes of "project vision and educational support" for a period of 5 years and invested the amount in the fixed deposit as per the prescribed mode.

7.2 *At this juncture it is worthwhile here to mention the observations of the Apex Court in the case of **Ananda Social & Educational Trust v. Commissioner of Income tax** reported in (2020) 426 ITR 340 as below-*

*"We have given our anxious consideration to the above submissions made by Ms. Aishwarya Bhati, learned Senior Counsel appearing for the appellant - Director of Income-tax and find that it is not possible to agree with the same. The purpose of section 12AA of the Act is to enable registration only of such trust or institution whose objects and activities are genuine. **In other words, the Commissioner is bound to satisfy himself that the object of the Trust are genuine and that its activities are in furtherance of the objects of the Trust, that is equally genuine.***

*Since section 12AA pertains to the registration of the Trust and **not to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision includes 'proposed activities'**. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust.*

We therefore find that the view of the Delhi High Court in the impugned judgment is correct and liable to be upheld.

Ms. Bhati, learned Senior Counsel for the appellant, fairly drew our attention to a judgment of the Allahabad High Court in IT Appeal No. 36 of 2013 titled as "Commissioner of Income Tax-II vs. R.S. Bajaj Society" which has taken the same view as that of the Delhi High Court in the impugned judgment. The Allahabad High Court has also referred to a similar view taken by the High Courts of Karnataka and Punjab & Haryana.

*Apparently, a contrary view has been taken by the Kerala High Court in the case of **Self Employers Service Society v. Commissioner of Income-tax - [2001] Vol.247 ITR 18**. That view however does not commend itself. However, the facts in **Self***

Employers Service Society (supra) suggest that the Commissioner of Income-tax had observed that the applicant for registration as a Trust had undertaken activities which were contrary to the objects of the Trust.

In the result, we find that there is no reason to interfere with the impugned judgment of the High Court of Delhi. The appeal is, accordingly, dismissed”

7.3 *We respectfully following the above judgment are of the opinion that the purpose of section 12AB of the Act is to enable the registration only of such trust or institution whose objects and activities are genuine. In other words, the ld. CIT(E) is bound to satisfy herself that the object of the trust is genuine and that its activities are in furtherance of the objects of the trust, that is equally genuine. Since Section 12AB of the Act pertains to the registration of the trust and to assess of what a trust has actually done, we are of the view that the term ‘activities’ in the provision include proposed activities’. In the present case, the assessee trust had filed form 10 for accumulation of Rs.38,50,000/- for the purpose of “project vision and educational support” which in our view is a proposed activity in line with the objects of the Trust.*

7.4 *In these circumstances, we are of the considered opinion that the ld. CIT(E) grossly erred in not granting registration merely on the basis of not incurring the substantial amount of expenditure and accordingly, we allow the appeal of the assessee and direct the ld. CIT(E) to grant registration u/s 12AB of the Act as applied by the assessee trust on 20.4.2024 in form No. 10AB. It is ordered accordingly.”*

7.1 *Respectfully following the above decision of the coordinate Bench, We are of the opinion that the ld. CIT(E) grossly erred in not granting registration merely on the basis of not incurring the substantial amount of expenditure and accordingly, we allow the appeal of the assessee and direct the ld. CIT(E) to grant registration u/s 12AB of the Act as applied by the assessee trust on 29.6.2024 in form No. 10AB. It is ordered accordingly*

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 28th July, 2025

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 28th July 2025.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.