

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

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 2464/Mum/2025**

Coral Foundation C/o Archana Sanjiv Bhor B-203, Harmony Siddeshwar Garden, Kolshet Road, Dhokali, Thane – 400607.	Vs.	Commissioner of Income Tax (Exemption) Tower No. 6, Vashi Stn complex, Vashi – 400703.
PAN/GIR No. AABTC9626K		
(Applicant)		(Respondent)

Assessee by	Shri RP Dawre (Virtually Appear)
Revenue by	Shri RA Dhyani, (CIT DR)

Date of Hearing	09.07.2025
Date of Pronouncement	24.07.2025

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the assessee challenging the impugned order dt. 14.02.2025 passed Form No. 10AD of the Income Tax Act, 1961 (‘the Act’), by the Commissioner of Income Tax (Exemption), Pune.

2. Ground No. 1 & 2 raised by the assessee are interrelated and interconnected and relates to challenging

the order of CIT(E) in not granting registration u/s 12AB of the Income Tax Act. Therefore we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard the counsels for both the parties, perused the material placed on record, judgement cited before us and also the orders passed by the revenue authorities.

4. As per the facts of the case, registration u/s 12AB of the Act applied by the assessee was rejected on the ground that the provisions under which assessee had applied for registration. u/s 12A(1)(ac)(vi)(B) is not applicable. However, the correct application should have been filed under clause (iii).

5. During the pendency of the application before CIT(E), assessee prayed to treat the said application u/s Sub clause (iii) of clause (ac) of section 12A(1) but the said request was not accepted by CIT(E).

6. In our view, filing of application for registration under wrong sub clause was an inadvertent mistake on the part of assessee, which cannot be fatal, more particularly when other details/information have already been provided. Therefore, CIT(E) should have allowed assessee to correct such mistake. Even the Coordinate Bench of ITAT in the case of **Shri Swaminarayan Gadi Trust Vs CIT in No. 369 & 370/SRT/2024 decided on 13.05.2024** under the similar situation had held as under

*5. We have considered the submissions of both the parties and perused the record carefully. There is no dispute that the assessee applied for registration under Section 12A/12AB of the Act under Form 10AB on 28.09.2023. The ld. CIT(E) while considering the application of assessee noted that the application filed by assessee is not maintainable and accordingly, a show cause notice dated 02/11/2023 was issued for seeking clarification. The assessee responded to the show cause notice of ld CIT(E) vide their reply dated 15.12.2023. The contents of show cause notice and the reply thereof is not recorded by ld CIT(E) in his order. We find that the assessee vide their reply dated 15/12/2023 prayed to consider the application in appropriate sub-clause of section 12A(1). The ld CIT(E) held that he has no power to change/ amend or rectify Form-10AB. We find that it was an inadvertent mistake and the assessee has already explained the facts and prayed for correction before the ld. CIT(E). In our view the mistake in filing entry was not fetal and could be considered in appropriate sub-clause or clause of section 12A(1). Otherwise, the assessee has provided all the details and information in Form-10AB, while applying for registration under section 12A/12AB. Being first appellate authority, the plea of assessee for correction in Form-10AB is accepted and the order of ld CIT(E) is set-aside. The registry official of ld CIT(E) maintaining record of ITBA portal about the registration of trust under section 12A/12AB is directed either to correct such mistake or*

*allow the assessee to rectify or amend the relevant clause/sub-clause of section 12A(1). Considering the fact that the application of assessee was not considered on merit, therefore, we deem it appropriate to direct the ld. CIT(E) to treat the application of assessee under Section 12A(1)(ac)(iii) in place of Section 12A(1)(ac)(iv) of the Act and to consider the case on merit and pass the order in accordance with law. Needless to direct that before passing the order, the ld CIT(E) shall grant opportunity of hearing to the assessee. The assessee is also directed to furnish complete details to prove its object and activity and make all compliances as desired by the ld. CIT(E). In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes only.*

*6. In the result, the appeal of assessee in ITA No. 369/Srt/2024 is allowed for statistical purpose*

7. Therefore considering the entire facts and circumstances of the present case we are of the view that wrong selection of clause would not disentitled the assessee to his rightful claim.

8. Be that as it may, without going into the merits of the case, we set aside the order passed by Ld. CIT(E) and restore the matter back to the file of Ld. CIT(E) with the direction to provide opportunity to the assessee to correct the application and thereafter Ld. CIT(E) is directed to decide the same on merits after providing opportunity of hearing to the assessee. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of the proceedings.

9. Before parting we make it clear that our decision to restore the matter back to the file of the Ld. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Ld. CIT(E) independently in accordance with law.

10. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 24.07.2025

Sd/-

Sd/-

**(PRABHASH SHANKAR)**  
**ACCOUNTANT MEMBER**

**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Mumbai, Dated 24/07/2025

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai