

IN THE INCOME-TAX APPELLATE TRIBUNAL "D" BENCH,  
MUMBAI

BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

&

SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.393/MUM/2025

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| <b>Mahadevi Parmeshwaridas<br/>Jindal Charitable Trust,</b><br>12A, 12 <sup>th</sup> Floor, Bakhtawar,<br>229, Nariman Point, Mumbai<br>- 400 021, Maharashtra | v/s.<br>बनाम | Commissioner of Income Tax<br>(Exemptions), Room No. 601,<br>6 <sup>th</sup> Floor, Cumballa Hill,<br>MTNL TE Bldg., Peddar Road,<br>Dr. Gopalrao Deshmukh Marg,<br>Cumballa Hill, Mumbai -<br>400026, Maharashtra |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAATM4556H  |              |  |
| Appellant/अपीलार्थी  | ..           | Respondent/प्रतिवादी   |

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| Appellant by :  | Shri Shankar Jalgar, AR          |
| Respondent by : | Shri Umashankar Prasad, (CIT DR) |

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| Date of Hearing       | 26.06.2025 |
| Date of Pronouncement | 09.07.2025 |

**आदेश / ORDER**

**PER PRABHASH SHANKAR [A.M.] :-**

The present appeal arising from the order dated 29.11.2024 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Exemptions), Mumbai [hereinafter referred to as "CIT(E)"] u/s. 80G of the Income-tax Act, 1961 [hereinafter referred to as "Act"].



2. The grounds of appeal are as under:

**Ground No. 1- Re: Rejection of approval for Registration u/s 80G(5) (vi) of the Income Tax Act, 1961.**

*The Learned Commissioner of Income Tax (Exemptions), Mumbai [hereafter referred as the 'CIT'] erred in **not granting renewal of approval u/s 80G** of the Income Tax Act, 1961 [the 'Act'] on flimsy grounds.*

1.1 *The Learned CIT erred in holding that the motor car purchased by the appellant does not give any benefit for the poor and needy people and do not draw any specific benefit for charitable purposes.*

1.2 *The learned CIT erred in holding that advances given to works contractors as loans given to parties without reasonable purpose.*

**Ground No. 2-** *The learned CIT erred in wrongly holding in the operative part of the impugned order that **he has no other option but to reject the application seeking registration under section 12AB of the Act, even though the appellant's application was for approval u/s 80G(5) (vi) of the Act.***

2.1 *The learned CIT ought have appreciated that the registration u/s 12AB of the Act is subsisting and the appellant had sought continuation of approval u/s 80G(5)(vi) of the Act.*

3. Brief facts of the case as narrated by the Id.CIT(E) are that the assessee Trust filed an application in Form 10AB u/s 80G(5) seeking approval under section 80G of the Act. The relevant procedural mandate is governed by the provisions of Rule 11AA of the IT Rules. The sub rule (2) of Rule 11AA mandates that the application in Form 10AB is to be accompanied by specific documents. On verification of the application in



Form 10AB filed, it was found by the Id.CIT(E) that the applicant had shown addition of motor vehicles of Rs. 37,71,919/- and Rs. 21,31,051/- during the year ending 31.03.2022 and 31.03.2024 respectively. Before him, it was stated that the purpose of motor vehicle purchase was for commuting of the personnel involved in the furtherance of the charitable activities and objects of the trust. However, he noted that the assessee did not provide any supporting evidence regarding the furtherance of the charitable activities by the vehicles.

4. It was noted that the vehicles purchased by the applicant are high end cars having values Rs. 37,71,919/- and Rs. 21,31,051/- which do not draw any specific benefits for charitable purposes. It is quite understandable that motor vehicles may be necessary while carrying out charitable activities, however, purchase of such high-end semi-luxury cars by utilizing the trust's funds does not seem rational. Further, the assessee has not provided any evidence regarding how the vehicles helped in furtherance of its charitable activities.

4.1 It was also observed by the Id.CIT the applicant trust had given unsecured loan of Rs. 1,00,00,000/- and Rs. 35,00,000/- respectively stated to be advances given to certain party for the purposes of carrying out some works related to its charitable activity. The said party had carried out certain works and thereafter refunded the balance



amounts to the assessee. It was further stated that the advances were given to outside parties in the ordinary course of the charitable activities of the assessee.

5. The Id.CIT( E) concluded that that submission made by the applicant was neither satisfactory nor conclusive. Registration under section 12AB is to be granted in terms of the provisions of section 12AB(1)(b) of the Act after being satisfied about the objects of the trust or institution, the genuineness of activities, and the compliance of any other law for the time being in force as are material for the purposes of achieving its objects. In the absence of sufficient and conclusive explanation supported by documentary evidence by the applicant, he unable to arrive at a satisfactory conclusion on these parameters. As such, in view of the statutory limitation to decide on the application on or before 30.11.2024, he was left with no other option but to reject the application seeking registration under section 12AB of the Act. In conclusion, the application for grant of registration was rejected.

6. Before us, the Id.CIT(DR) has placed reliance on the order passed by the Id.CIT(E). Per contra the Id.AR has made a detailed submission. It is contented that in this appeal the only issue involved is - whether approval u/s 80G(5)(vi) of the Act can be denied to the assessee trust on the ground that- (a) the assessee has purchased motor



cars/vehicles and (b) certain advances were given to contractors against charitable works of the Trust?

7. In this regard, it is submitted that the applicant is a Public Charitable Trust registered under the Maharashtra Public Trusts Act, 1950 vide Certificate No. E-0017421(Mum) dated 12.03.1998 issued by the Charity Commissioner, Mumbai. It has been granted registration u/s 12A/ 12AA of the Act and renewed from time to time. The last such renewal was granted vide Certificate in Form 10AC dated 24.09.2021 for period covering assessment years: 2022-23 to 2026-27 by the Income Tax Department and the same is subsisting till date. It was also granted approval u/s 80G(5) of the Act and was renewed from time to time. The last such renewal was granted on 02.10.2021 which was valid for and up to assessment year 2024-25 (i.e. till 31.03.2024). It had made application for continuation of approval u/s 80G(5)(vi) of the Act for the period covering assessment years 2025-26 and onwards. The Ld. CIT(E) vide the impugned Order dated 29.11.2024 has rejected the said application u/s 80G(5)(vi) of the Act. It is contented that the Ld. CIT(E) has passed the impugned order has in effect rejected the 12A registration of the assessee even though it was not the subject matter before him. Its application before the CIT (E) was for continuation of renewal u/s 80G(5) (vi) of the Act and not related to the registration u/s 12A of the



Act. The appellant has complied with and fulfilled all the conditions laid down in section 80G(5)(vi) of the Act.

8. On merits of the issues involved, it is contented that in the ordinary course of carrying out its charitable activities it had given advance to local contractors for executing various works in furtherance of its charitable object. The said party is an outsider and independent person. The said party had carried out certain works and also incurred expenses on behalf of the trust. After adjusting the amount due to him, the said party has refunded the balance amount to it. In fact, this advance was given in the ordinary course of charitable activities of the assessee to a third party who is not covered u/s 13(3) of the Act. It is submitted that the Id. CIT(E) has relied only on the disclosure in financial statements and ignored the true nature of the amounts given.

8.1 With regard to the purchase of vehicles which were observed to be costly and did not seem to be rational for charitable activities, it was submitted that these vehicles were purchased in the name of the trust and also registered in its name. These vehicles were needed for attending to various charitable activities of the appellant more particularly in the state of Haryana for visits to rural area. The vehicles had been used by the assessee for its charitable work to ferry visiting dignitaries and officials to the rural areas. It is to be noted that all the



Trustees have been regular residents of Mumbai and the vehicles in question are stationed and used in the state of Haryana where lot of charitable activities are carried out by the assessee. Further the vehicles in question were used for the charitable objects and not personal purposes of the Trustees or any persons referred in sec 13(3) of the Act. It is submitted that the mere fact that the assessee has purchased vehicles for safe journey, though little costly, cannot be a ground for not granting approval u/s 80G(5)(vi) of the Act. In support of this submission the assessee relies on order of the Hon'ble ITAT Mumbai Bench on the case of The Cancer Aid & Research Foundation Vs. Director of Income Tax (Exemp.) (2014) 34 ITR (Trib.) 56, Mumbai. It is submitted that merely because the vehicles were purchased for safe and comfortable travelling in rural areas by its staff and visiting officials/ other persons, it did not mean that the vehicles were not used for purposes of charitable activities of the appellant.

9. On careful consideration of the facts of the case, at the outset it appears that the ld.CIT(E) has passed the order rejecting the application of the applicant for renewal of its 80G registration. However, he in the concluding para 5 above has given an altogether different finding which pertains to application for registration u/s 12AB of the Act. The relevant para is reproduced as below:



“Thus, the submission made by the applicant is neither satisfactory nor conclusive. **Registration under section 12AB is to be granted in terms of the provisions of section 12AB(1)(b) of the Act after being satisfied about the objects of the trust or institution**, the genuineness of activities, and the compliance of any other law for the time being in force as are material for the purposes of achieving its objects. In the absence of sufficient and conclusive explanation supported by documentary evidence by the applicant, the undersigned is unable to arrive at a satisfactory conclusion on these parameters. **As such, in view of the statutory limitation to decide on the application on or before 30.11.2024, the undersigned is left with no other option but to reject the application seeking registration under section 12AB of the Act.**In conclusion, **this application for grant of registration stands rejected.**”

9.1 We, therefore, find that the ld.AR has rightly pointed that the ld. CIT(E) has passed the impugned order which has, in effect, rejected the 12A registration of the assessee even though it was not the subject matter before him. The application before him was for continuation of renewal u/s 80G(5) (vi) of the Act and not related to the registration u/s 12A of the Act. It is also evident from last few lines of the above para 5, the order had to be passed by him on account of time barring constraints. Evidently, the order passed cannot be considered to be adhering to the principles of natural justice. Apparently, he failed to properly understand the issue involved and also failed to properly appreciate the contentions made by the assessee before him. It is also



not known whether he has rejected the registration u/s 12A or not vide any other separate order?

9.2 Considering the totality of above stated facts and the circumstances of the case, we are of the opinion that the Id.CIT(E) has failed to adjudicate the issues before him in proper perspective. We therefore, consider it fit to set aside his order and restore the same back to him for *de novo* consideration of all the relevant facts of the case and decide the same in accordance with the provisions of the Act after allowing adequate opportunity of hearing to the assessee Trust.

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

Order pronounced in the open court on 09.07.2025.

Sd/-

**PAWAN SINGH**

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

**PRABHASH SHANKAR**

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 09.07.2025

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.



3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.

