

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, MUMBAI  
BEFORE SHRI SANDEEP GOSAIN, (JUDICIAL MEMBER) AND  
SHRI PRABHASH SHANKAR, (ACCOUNTANT MEMBER)**

**I.T.A. No.1227/Mum/2025  
Assessment Year: Not Applicable**

<b>Pushtiseva Foundation</b> 2405/06, Floor 24, Tower A, Ashoka Tower, Dr. S. S. Rao Road, Opp. Mahatma Gandhi Hospital, Parel, Mumbai 400012.  <b>PAN: AAKCP7504M</b> <b>(Appellant)</b>	Vs	<b>Commissioner of Income Tax (Exemption), Mumbai</b> Room No. 601, 6 <sup>th</sup> Floor, Cumballa Hill MTNL TE Building, Peddar Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai 400026.  <b>(Respondent)</b>
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<b>Appellant by</b>	Shri. Yogesh Thar a/w Ms SejalNahata
<b>Respondent by</b>	Shri R. A. Dhyani, (CIT. DR)

<b>Date of Hearing</b>	02.07.2025
<b>Date of Pronouncement</b>	04.08.2025

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the revenue challenging the impugned order dt. 23.12.2024 passed Form No. 10AD of the Income Tax Act, 1961 ('the Act'), by the Commissioner of Income Tax (Exemption) – 1, Mumbai.

*“1. Ground No. I: Violation of Principle Of Natural Justice*

*1.1. On the facts and circumstances of the case and in law, the Id CIT (E) erred in rejecting the application filed by the Appellant for registration u/s. 12AB of the Act without affording a reasonable opportunity of being heard.*

*1.2. The Appellant submits that an order passed without affording a reasonable opportunity of being heard to the Appellant is in violation of principle of natural justice and deserves to be quashed*

*1.3. The Appellant, therefore, prays that the impugned order to be set aside and quashed.*

*Without Prejudice To Above Ground*

*2. Ground No. II: Misleading Information Provided By The Income Tax Portal*

*2.1. On the facts and in the circumstances of the case and in law, the Appellant submits that on attempting to file Form No. 10A for registration of already existing trusts, the income tax portal guided that where the business activity of the trust has already been commenced, the trust can directly proceed to file Form No. 10AB*

*2.2 In view of the foregoing, the Appellant did not file the application for registration in Form No 10A*

*2.3. The Appellant, therefore, prays that the impugned order should be quashed and opportunity should be provided to file fresh Form No 10A or Form No 10AB as may be applicable*

*Without Prejudice to Above Ground*

*3. Ground No. III: Inadvertent Procedural Error Should Not Result In Cancellation Of Registration.*

*3.1. On the facts and circumstances of the case and in law, the Appellant submits that mere filing of wrong form does not disentitle the Appellant for registration u/s. 12AB of the Act.*

*3.2 The Appellant submits that Form No. 10A and Form No. 10AB, in substance requires similar information, particularly Form No. 10AB requires certain additional details and the Appellant has already filed the required details.*

*3.3 The Appellant, therefore, prays that the impugned order to be set aside and quashed.”*

**2.** The only effective ground raised in the present appeal, relates to challenging the order of Ld. CIT(E) in rejecting the

registration/ approval sought by the assessee u/s. 10(23)C of the Act.

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

**4.** From the records, we noticed that the application for seeking registration/approval sought by the assessee u/s. 10 (23) C of the Act, was rejected by the authorities merely on the ground that the same has not been filed in form A, without providing opportunity to the assessee for correcting the said form. In our view, the inadvertent procedural errors should not result in cancellation/rejection of registration. In this regard AR has relied upon number of judgements and after having gone through the said decisions and while relying upon the decision of the Coordinate Bench of ITAT in ITA No. 575 &576/CHNY/2023. In the case of LDCL vs. CIT decided on 26.12.2023. Wherein it was held as under.

*“6. We have heard rival contentions and gone through the facts and circumstances of the case. We note that assessee trust is an existing charitable trust should have applied for registration u/s.12A of the Act in terms of Section 12A (ac)(i) of the Act and this provision of Section 12AB of the Act was inserted w.e.f. 01.04.2021 and the application had to be made by assessee on or before 30.06.2021. Similar requirement was inserted in clause (i) of first proviso to Section 80G (5) of the Act in respect of registration u/s.80G (5) of the Act. Assessee had incorrectly filed form 10AB on 22.09.2022 for obtaining registration u/s.12A(1) (ac) (i) and clause (i) of first proviso to Section 80G (5) of the Act. Ld. Counsel for the assessee stated that the form 10A and form 10AB in substance required similar information. She pointed that particular form 10AB required certain additional details. Assessee also filed required relevant details. Ld. Counsel for the assessee also explained the circumstance that subsequent CBDT vide Circular No.22 of 2022 dated*

*01.11.2022 considering the representations received from the public with a view to avoid genuine hardship had condoned the delay in filing form 10A upto 25.11.2022. She also stated that form 10A opened only in respect of cases falling under 12A (1) (ac) (vi) of the Act and assessee's case fell under section 12A(1)(ac) (i) of the Act and hence could not file application in form 10A of the Act. She also stated that mere filing of wrong form does not disentitle the assessee for registration u/s.12AB of the Act. The proviso to Section 80G(5) of the Act especially when the CBDT had extended the due date and filing form 10A vide Circular No.6 of 2023 dated 24.05.2023. She also explained that assessee also attempted to file fresh form 10A and Income Tax portal did not permit the assessee to file the same. Hence, she requested that the order of the Id. CIT(E) may be quashed and the matter may be restored back to the file of the Id. CIT (E) to allow the assessee to file fresh form No. 10A of the Act and will consider granting of registration u/s.12A of the Act and also u/s.80G of the Act.*

*7. On the other hand, the Id. Senior Departmental Representative relied on the order of the Id. CIT(E).*

*8. We noted that the Id. CIT(E) simpliciter rejected the assessee's application for registration only on the issue that assessee has not furnished form No. 10AC/10AD and the present application u/s.10AB of the Act was filed u/s 12A(1) (ac) (iv) of the Act seeking registration is not maintainable and hence rejected. We are of the view that assessee has not filed application in form 10A and filed form no. 10AB of the Act which is merely a technical breach which can be cured by allowing the assessee to file application in form 10A of the Act alongwith other details. Hence, we set aside the appeal and the matter is remitted back to the file of the Id. CIT (E) who will allow assessee to file application in form No. 10A along with other required details and the Id. CIT (E) will examine entire aspect relating to registration u/s.12AB of the Act as well as u/s.80G of the Act and then will decide the appeal accordingly. In terms of the above, the appeal of the assessee in ITA No. No.577/Chny/2023 is allowed for statistical purpose.”*

**5.** Therefore, considering the entire facts and circumstances of the present case and also taking into consideration the decisions of the Co-ordinate Benches, we are also of the view that assessee has not filed application in Form 10A and rather filed in Form No. 10AB of the Act, which is merely a technical breach, which can be cured by allowing the assessee to file application in Form 10A of the Act along with other details. Hence, we set aside the

impugned order and the matter is restored back to the file of Ld. CIT(E) with a direction to allow the assessee to file the application in Form 10A along with other required details and thereafter Ld.CIT(E) shall examine the entire aspects relating to above registration and then decide the appeal accordingly in terms indicated above.

**6.** Before parting we make it clear that our decision to restore the matter back to the file of 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 Ld. CIT(E) independently in accordance with law.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 04/08/2025**

**Sd/-**  
**(PRABHASH SHANKAR)**  
**(ACCOUNTANT MEMBER)**

**Sd/-**  
**(SANDEEP GOSAIN)**  
**(JUDICIAL MEMBER)**

Mumbai:  
Dated: 04/08/2025

*Divya R. Nandgaonkar*  
*Stenographer*