

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER
AND SH. KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

**I.T.A. No. 257/Asr/2025
Assessment Year: N/A**

Bhai Daya Singh Ji Bhai Dharam Singh Ji Nishkam Satsang Sabha, Ludhiana. [PAN: AAGAB1280Q] (Appellant)	Vs.	CIT, (Exemptions), Chandigarh. (Respondent)
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**I.T.A. No. 258/Asr/2025
Assessment Year: N/A**

Bhai Daya Singh Ji Bhai Himmat Singh Ji Nishkam Satsang Sabha, (through its managing trustee, Ludhiana. [PAN: AAGAB1279F] (Appellant)	Vs.	CIT, (Exemptions), Chandigarh. (Respondent)
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Appellant by	Sh.Inderjit Paul, Adv.
Respondent by	Smt. Balvinder Kaur, CIT. DR

Date of Hearing	20.08.2025
Date of Pronouncement	22.08.2025

ORDER

Per: Khettra Mohan Roy, AM:

These are two appeals filed by the same assessee is directed against the separate orders passed by the Ld. Commissioner of Income Tax (Exemption) Chandigarh [for short "CIT(E)] both dated 10.02.2025, wherein ld CIT(E) has

rejected application of assessee filed in Form No.10AB, u/s 80G(5)(iii) of the Income Tax Act, 1961 stating that assessee has not filed application within the time limit prescribed under the Act

2. Since the issue involved in both the appeals are common and identical therefore, both these appeals, have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity. The ground as well as facts narrated in ITA No.257/Asr/2025 have been taken into consideration for deciding the above appeals *en masse*.

3. The grounds of appeal raised by the assessee-trust in “*lead*” case in ITA No.257/Asr/2025, are as follows:

“1. That the order of Ld. Commissioner of Income-tax (Exemptions) is illegal, arbitrary and contrary to facts and on this illegality pervades over all grounds of appeal.

2. That the Ld. Commissioner of Income-tax (Exemptions) has erred in law and not judicially applied her mind to the facts and circumstances of the case and as such the rejection of registration u/s 80G(5)(iii) is illegal and needs to be set aside.

3. That the Ld. Commissioner of Income-tax (Exemptions) has acted post haste in rejecting the application without affording reasonable opportunity of being heard to the appellant and accordingly the appellant was prevented by sufficient cause in not being able to represent this case.

4. That the Ld. Commissioner of Income-tax (Exemptions) has erred in law and not doubted on explanation and conclusive evidences related to the activities and other documents produced before her during the proceedings but she brushed aside all explanations and evidences without any specific reason which is blatant disregard to the spirit of principle of natural justice and procedure of law.

5. That the findings of the Ld. Commissioner of Income-tax (Exemptions) are not justified in law as well as facts of the case and the rejection of registration totally based on technical ground that non-filing of application within the six months from commencement of activities (i.e. 26/03/2019) after ignoring all the circumstances and affairs, which is illegal and bad in law and required to be set aside in the interest of equity and justice.

6. That the Ld. Commissioner of Income-tax (Exemptions) has recorded her reasons in view of rejection of registration u/s 80G(5) (iii) of Income-tax Act, 1961 in legal vacuum in absence of written submissions, in which all the points were elaborated exhaustively.

7. That the Ld. Commissioner of Income-tax (Exemptions) has completely failed to issue show cause notice or raise the query before deciding the application of registration regarding non filing of application of final registration within specified time.

8. That the appellant craves leave to add, amend or withdraw any new

ground or grounds of appeal before or at the time of hearing of appeal.”

4. The relevant material facts, as culled out from the material on record, are as follows. The assessee-trust filed an application, in Form No.10AB electronically, for approval under clause (iii) of first proviso to sub-section (5) of section 80G of the Act. Since the assessee has filed the present application in Form No.10AB, u/s 80G(5)(iii) of the Act, so Id CIT(E) was of the view that it is essential to analyse the 3rd proviso of section 80G(5) of the Act, as it stands from 01.04.2021, which stipulates as under:

“(iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier.”

After referring clause(iii) of proviso to Section 80G(5) of the Act, the Id CIT(E) issued notice to the assessee-trust to file the relevant documents and explanation. The Id CIT(E) noted that the assessee has got provisional approval u/s 80G(5) of the Act and therefore the assessee was required to file application in Form No.10AB under clause (iii) of first proviso to sub-section (5) of Section 80G of the Act within the time period of at least six months prior to expiry of period of the provisional approval or within six months of commencements of its activities, whichever is earlier. The time limits prescribed therein is

mandatory and the Commissioner of Income Tax has no power to condone the delay in filing application in Form No.10AB.

5. The Id. AR vehemently assailed the order and has placed on record the order of ITAT, Surat Bench ITA Nos. 728 & 732/SRT/2023 in the case of Vananchal Kelavani Trust, & Shree Krushna Sansthan Charitable Trust, he pleaded that the ratio of the said order which is opposite in the dispute before us, may be respectfully followed relevant para 19 to 21 of this order are extract below:

“19. Now the next question before us is that whether Tribunal has power to condone the delay in filing the Form No.10AB, u/s 80G(5) of the Act. The Tribunal is a final fact finding authority, and based on the assessee’s facts and undue hardship created by the clause (iii) of 3rd proviso of section 80(5) of the Act, the Tribunal may condone the delay in filing the Form No.10AB, u/s 80G(5) of the Act. Therefore, we are of the view that delay in filing the Form No.10AB, u/s 80G(5) should be condoned in the interest of justice. For that we rely on the judgment of Hon’ble Delhi High Court in the case of DCIT(Exemption) vs. Vishwa Jagriti Mission [2013] 30 taxmann.com 41 (Delhi)/[2013] 213 Taxman 65 (Delhi), wherein the Hon’ble Delhi High Court held as follows:

“18. The main question that falls for our consideration is whether the Tribunal was justified in condoning the delay in the filing of the application for registration under section 12A of the Act and whether the view taken by the Tribunal is perverse. The question whether there was sufficient cause

for the delay is always a question of fact as has been held by two Division Bench judgments of this Court: (i) CIT v. Parma Nand [2004] 266 ITR 255/135 Taxman 100 (Delhi) and (ii) CIT v. ITOCHU Corpn. [2004] 268 ITR 172/139 Taxman 348 (Delhi). The Tribunal has, in an elaborate order in which all the facts and the rival submissions have been taken into consideration, held that there was sufficient cause for the delay on the part of the assessee-society in making the applications for registration under section 12A and 80G of the Act. It is not necessary, nor is it proper, for us to decide the culpability or otherwise of A.K. Sikri who was the Treasurer of the assessee-society. All that we need to examine is whether the Tribunal had valid materials before it on the basis of which it could have reasonably come to the conclusion that the assessee-society was prevented by sufficient cause in applying for the registration in time. It is manifest from a fair reading of the order of the Tribunal that it had weighed the circumstances in which the assessee-society was placed and the action it took immediately on receipt of the complaint from M.P. Mansinghka Trust of Mumbai; it has referred to the confession of Sikri in the meeting of the governing body owning up responsibility for having misled the assessee-society by representing that the necessary application for registration were made in time; it has also referred to the action taken by the assessee-society against Sikri when it found that Sikri was not taking adequate steps to remedy the situation; it has also referred to the police complaints filed not only by the assessee-society against Sikri, but also to the complaint filed by the income tax authorities against Sikri which indicated that they also viewed Sikri to be responsible for the mis-representation, fake certificates of registration, etc. Moreover, the Tribunal has taken note of the fact that the Metropolitan

Magistrate, acting on the police complaint, remanded Sikri to custody and also referred to the fact that in the bail application, Sikri had again owned up responsibility for the fake certificates of registration. Taking an overall view of the facts and going by the preponderance of probabilities, the Tribunal came to hold the view that it was because of the irregularities, illegalities and misrepresentations of Sikri that the assessee-society was led to believe that appropriate applications under the Act were already filed with the income tax authorities for registration. The assessee-society was thus under the belief, though mistaken but honest, that there was no delay and once it came to know on 06.12.2005 about the irregularities on a complaint from M.P. Mansinghka Trust of Mumbai and on further enquiry conducted on 14.12.2005 by the governing body, it hastened to take remedial action by filing applications for registration both under section 12A and 80G of the Act, which were followed up by another set of applications filed directly with the DIT (Exemptions) on 21.12.2005; these applications were obviously delayed and the condonation application was filed on 14.03.2006 narrating the events that led to the delay. Page |

19. In the above circumstances, it seems to us that the Tribunal has acted judicially, taking note of all the facts and circumstances including probabilities of the case. In Esthuri Aswathiah v. CIT [1967] 66 ITR 478 (SC), the Supreme Court outlined the duties of the Tribunal in the following words: - "The function of the Tribunal in hearing an appeal is purely judicial. It is under a duty to decide all questions of fact and law raised in the appeal before it: for that purpose, it must consider whether on the materials relied upon by the assessee his plea is made out. Conclusive proof of the claim is not predicated: the Tribunal may act upon

probabilities, and presumptions may supply gaps in the evidence which may not, on account of delay or the nature of the transactions or for other reasons, be supplied from independent sources. But the Tribunal cannot make arbitrary decisions: it cannot found its judgment on conjectures, surmises or speculation. Between the claims of the public revenue and of the taxpayers, the Tribunal must maintain a judicial balance." In Udhavdas Kewalram v. CIT [1967] 66 ITR 462 (SC) the very same Bench of three judges of the Supreme Court again observed as under: - "The Income-tax Appellate Tribunal performs a judicial function under the Indian Income-tax Act: it is invested with authority to determine finally all questions of fact. The Tribunal must, in deciding an appeal, consider with due care all the material facts and record its finding on all the contentions raised by the assessee and the Commissioner in the light of the evidence and the relevant lawThe Tribunal was undoubtedly competent to disagree with the view of the Appellate Assistant Commissioner. But in proceeding to do so, the Tribunal had to act judicially, i.e., to consider all the evidence in favour of and against the assessee. An order recorded on a review of only a part of the evidence and ignoring the remaining evidence cannot be regarded as conclusively determining the questions of fact raised before the Tribunal." 20. We are satisfied that the Tribunal has, in making its decision, kept in mind the aforesaid principles adumbrated by the Supreme Court. Its order cannot, therefore, be branded as perverse or unreasonable or irrational. 21. That takes us to the question as to whether in condoning the delay the Tribunal committed any error of law or illegality. There is a wealth of judicial literature on the subject of condonation of delay and most of the cases have arisen under section 5 of

the Limitation Act, 1963. The principles that are to be applied are, however, no different whenever the question of condonation of delay comes up for consideration under other statutes. In the oft quoted judgment of the Supreme Court in Collector, Land Acquisition v. MST. Katiji [1987] 167 ITR 471 it was observed as follows: - "The Legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on the merits". The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been Page | 15 ITA Nos.728 &732/SRT/2023 Vananchal Kelavani Trust &Sh. Krushna Sansthan Charitable Trust making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy." 22. The following general principles were laid down and it is these principles which guide the Court in approaching the question of condonation of delay: - "And such a liberal approach is adopted on principle as it is realized that: 1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late. 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. 3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied

in a rational, common sense and pragmatic manner. 4. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a nondeliberate delay. 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk. 6. It must be grasped that the judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so." 23. In N. Balakrishnan v. M. Krishnamurthy [1998] 7 SCC 123 the Supreme Court again reiterated the approach. In Ram Nath Sao v. Gobardhan Sao [2002] 3 SCC 195 it was observed by the Supreme Court that acceptance of the explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. In the present case, the Tribunal has found that the assessee-society has taken prompt remedial action and put Sikri on the dock and he also admitted his fault, though he tried to shift the blame to his employee whose whereabouts were never known. Even in his bail application he had confessed to his role in the alleged irregularities and illegalities. There has been no want of bona fides on the part of the assessee, nor did it fail to take immediate action once it was apprised of the irregularities in its affairs by M. P. Mansinghka Trust of Mumbai. In these circumstances, we are unable to say that the Tribunal committed an error in condoning the delay. 24. On the question of perversity of the decision of the Tribunal we may also refer to the judgment of the Supreme Court in

Sree Meenakshi Mills Ltd. v. CIT [1957] 31 ITR 28. In that judgment, it was noted that only a question of law can be referred for decision of the Court and the decision of the Tribunal on a question of fact can be challenged only if it is not supported by any evidence, or is unreasonable or perverse. The following pithy observations of T.L. Venkatarama Aiyar, J. speaking for the Court are relevant: - " The point for decision is whether there arises out of the order of the Tribunal any question which can be the subject of reference under section 66 (1) of the Act Under that section, it is only a question of law that can be referred for decision of the Court, and it is impossible to argue that the conclusion of the Tribunal is anything but one of fact. It has been held on the corresponding provisions in the English Income-tax statutes that a finding on a question of fact is open to attack as erroneous in law only if it is not supported by any evidence, or if it is unreasonable and perverse, but that where there is evidence to consider, the decision of the Tribunal is final even though the Court might not, on the materials, have come to the same conclusion if it had the power to substitute its own judgment. In Great Western Railway Co. v. Bater (1), Lord Atkinson observed: "Their (Commissioners') determinations of questions of pure fact are not to be disturbed, any more than are the findings of a jury, unless it should appear that there was no evidence before them upon which they, as reasonable men, could come to the conclusion to which they have come: and this, even though the Court of Review would on the evidence have come to a conclusion entirely different from theirs." There is no need to further elaborate this position, because the law as laid down in these observations is well settled, and has been adopted in the construction of section 66 of the

Act." 25. This view was reiterated by the Supreme Court in CIT v. Daulatram Rawatmull [1964] 53 ITR 574 where it was held that "if there is some evidence to support the finding recorded by the Tribunal, even if it appears to the High Court that on re-appreciation of the evidence, it might arrive at a conclusion different from that of the Tribunal" the High Court has no power to interfere with the findings of the Tribunal. These decisions were applied by a Division Bench of this Court in CIT v. Baba Avtar Singh[1972] 83 ITR 738 where it was observed as under: - "The submission made by Mr. Sharma does not appear to us to be correct. It is well-settled that the court cannot set aside the Tribunal's finding of fact if there is some evidence to support that finding even though the court itself might have come to a different conclusion upon the evidence." 26. The aforesaid principles govern the order of the Tribunal and the approach to be adopted by us in the present case. At best, what can be argued by the Revenue is only that another view was possible to be taken by the Tribunal and this Court should prefer the alternative view on the same facts and evidence and discard the Tribunal's view. Obviously the argument cannot be upheld, having regard to the above judgments. Page | 17 ITA Nos.728 &732/SRT/2023 Vananchal Kelavani Trust &Sh. Krushna Sansthapan Charitable Trust 27. For the above reasons we answer the substantial questions of law framed in ITA Nos.754, 773 and 775 of 2010 in the negative, against the Revenue and in favour of the assessee. Consequently the sole substantial question of law framed by us in ITA Nos.1092, 1101, 1103, 1104, 1112 and 1124 of 2010 is answered in the affirmative, against the Revenue and in favour of the assessee. The C.M. Application is disposed of. The appeals of the Revenue are accordingly dismissed with no

order as to costs.” 20. Respectfully following the judgement of the Hon’ble Delhi High Court in the case of Vishwa Jagriti Mission (supra), wherein the delay in filing application for registration u/s 12A, was allowable / condoned, hence, we condone the delay in filing Form10AB, u/s 80G(5), and remit the matter back to the file of Ld.CIT(E) with the direction to decide the application of assessee, in accordance with law. The assessee is also directed to file details and documents, before ld CIT(E), as and when, required by ld CIT(E). For statistical purposes, the appeal of the assessee is treated to be allowed. 21. Since, we have adjudicated the issue under consideration by taking the “lead” case in ITANo.728/SRT/2023 and since the facts in ITA No.732/SRT/2023 are similar and identical, therefore our instant adjudication in ITA No.728/SRT/2023 is mutatis mutandis applicable to ITA No.732/SRT/2023. We order accordingly. 22. In the combined result, both appeals (ITA No.728 & 732/SRT/2023) are allowed for statistical purposes in above terms.

6. Per contra, the ld. CIT DR failed to submit any contradictory order. Hence, respectfully following the judicial precedent, we observe that the appellant’s grievance is fit for redressed.

7. Respectfully following the judgement of the Hon’ble Delhi High Court in the case of Vishwa Jagriti Mission (supra), *wherein* the delay in filing application for registration u/s 12A, was allowable / condoned, hence, we condone the delay in filing Form10AB, u/s 80G(5), and remit the matter back to the file of Ld. CIT(E) with the direction to decide the application of assessee, in accordance

with law. The assessee is also directed to file details and documents, before Id CIT(E), as and when, required by Id CIT(E). For statistical purposes, the appeal of the assessee is treated to be allowed.

8. Since, we have adjudicated the issue under consideration by taking the “*lead*” case in ITANo.257/Asr/2025 and since the facts in ITA No.258/Asr/2025 are similar and identical, therefore our instant adjudication in ITA No.257/Asr/2025 is *mutatis mutandis* applicable to ITA No. 258/Asr/2025. We order accordingly.

9. In the combined result, both appeals (ITA Nos.257 & 258/Asr/2025) are allowed for statistical purposes in above terms.

Order pronounced in the open court on 22.08.2025

Sd/-

(Udayan Das Gupta)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

Sd/-

(KHETTRA MOHAN ROY)
Accountant Member

True Copy
By Order