

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**GUWAHATI BENCH, GUWAHATI**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 78/GTY/2025**  
**Assessment Year: 2021-22**

**Siva Sundari Narisikshasram and**  
**Ante Natal Clinic,**

Park Road, Silchar - 788001

[PAN: AAGAS4283E]

..... **Appellant**

**vs.**

**ITO (Exemption), Ward 2(3), Shillong,**

Aayakar Bhawan, Christian Basti,

Assam - 781005

..... **Respondent**

**Appearances by:**

Assessee represented by : Sanjay Mody, FCA  
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 06.08.2025

Date of pronouncing the order : 11.08.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. This appeal arises from order dated 11.02.2025, passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Addl./JCIT(A)-10, Delhi.

1.1 In this case, the Ld. AO CPC withheld the deductions claimed under Section 11 & 12 of the Act on the ground that the assessee was required to apply for new registration as per the amendment brought into section 12A(1) of the Act, with effect from 01.06.2020.

1.2 Aggrieved with this action, the assessee approached Addl/JCIT(A) where he could not comply with any of the notices issued for affording opportunity of hearing. This fact is recorded on page 2 of the impugned order. Needless to say, the assessee could not succeed at first appeal stage.

2. Aggrieved with this action of the first appellate authority, the assessee has approached the ITAT with the following grounds:

*“1. For that the Id. Additional/Joint CIT (Appeal)-10, Delhi (hereinafter JCIT(A)) was not justified in not holding that the intimation order dated 23.08.2022 under section 143(1) of Income-tax Act, 1961 (Act) passed by the learned ADIT, CPC, Bengaluru (AO) for the AY 2021-22 was bad in law, facts and procedure.*

*2. For that the Id. CIT(A) erred in not holding that the id. AO was not justified in not allowing statutorily allowable deduction under sections 11 and 12 of the Act to the assessee on the ground that the law regarding registration/ approval has been amended from 01.06.2020 and in case of the assessee new registration/ approval details are not available in return form and therefore, exemption claimed is not allowable for the AY 2021-22 and thus, ignoring the subsequent amendment made in the law by Taxation and Other Laws (Relaxation and Amendment. of Certain Provisions) Act, 2020 (in short 'TOLA').*

*3. For that the Id. CIT(A) ought to have hold that in view of the amendment made by TOLA whereby the amendment earlier made by Finance Act, 2020 in section 12A(1)(ac) was omitted with retrospective effect from 01.06.2020 itself, the Id. AO was not justified in not allowing statutorily allowable benefit of sections 11 and 12 of the Act and thereby, increased the total income of the assessee by Rs. 6,70,41,549/- by way of an adjustment in processing the return under section 143(1) of the Act.*

*4. For that, without prejudice to the above, alternatively also when the surplus from running of the hospital by the assessee was Rs. 17,24,270/- only [Rs. 6,68,88,045 + Rs. 1,53,504 = Rs. 6,70,41,549 minus Rs. 6,53,17,279], the Id. CIT(A) ought to have hold that the Id. AO was not justified in determining total income of the assessee at Rs. 6,70,41,549/- in any view of the matter.*

*5. For that the impugned appellate order having been passed by the Id. CIT(A) in gross violation of principles of natural justice and without allowing reasonable opportunity of being heard, the same is bad in law and unsustainable.*

*6. For that the appellant craves leave of your honour to take additional ground or grounds of appeal and/or to modify or resign any ground(s) of appeal before or at the time of hearing.”*

3. Before us, the Ld. AR argued with the help of written submissions. The crux of his argument was that for A.Y. 2021-22 the amendment

brought in effect from 01.06.2020 was not applicable since it was amended with retrospective effect from 01.06.2020 itself through TOLA-2020. The Ld. AR pointed out that all the facts were before the Ld. Addl./JCIT(A) for an adjudication on merit. Thereafter, the Ld. AR relied on the written submissions and concluded his arguments.

3.1 The Ld. DR relied on the orders of authorities below.

4. We have carefully considered the rival submissions and have also gone through the records before us. It is seen that it was the primary responsibility of the first appellate authority to pass a speaking order as envisaged under Section 250(6) of the Act. However, it is appreciated that the first appellate authority did not have the benefit of the contentions of Ld. AR, as have been filed before us. For the sake of convenience some portions from the written submissions deserve to be extracted as under:

“Finance Act, 2020:

*1. That the section 12A(1)(ac) was firstly, inserted by the Finance Act, 2020, with effect from 01.06.2020. The said new provision provided that all existing registered entity were required to apply for fresh registration within 3 months from the date on which this clause has come into force, i.e., 01.06.2020. Thus, as per the said law which was inserted by the Finance Act, 2020, w.e.f. 01.06.2020, for the Assessment Year 2021-22 for getting the benefits of sections 11 and 12 it was mandatory for even an already registered entity under section 12A or 12AA to again apply for re-registration within 3 months with effect from 01.06.2020.*

*2. As a consequence of the above insertion, sub-section (5) was also inserted in section 12AA(5) by the Finance Act, 2020 to provide as under-*

*"12AA(5). Nothing contained in this section shall apply on or after the 1st day of June 2020*

TOLA 2020

*3. However, by the "Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [in short as popularly known as 'TOLA'], the above newly inserted section 12A(1)(ac) was omitted with retrospective effect from 01.06.2020 itself*

*4 Thus, the said new law which was inserted w.e.f. 01.06.2020 was also omitted w.e.f. 01.06.2020 itself*

5. *in place of the same, new clause (ac) was inserted w.e.f. 01.04.2021.*

6. *Thus, the amendment which was made in section 12A(1)(ac) with effect from 01.06.2020 by the Finance Act, 2020 was omitted by TOLA with retrospective effect from 01.06.2020 itself.*

8. *Thus, the law which required for fresh registration within 3 months, w.e.f. 01.06.2020 for availing benefit under sections 11 and 12 stands omitted by the TOLA, 2020, w.e.f. 01.06.2020 itself.*

9 *That the application for registration under new provisions, as can be made only after 01.04.2021, as per amendment made by TOLA. Further, as per main provisions of section 12(2), provisions of sections 11 and 12 shall be applicable from the assessment year following the financial year in which such application for registration is made. Thus, as application can be made for registration or re-registration at the earliest, only on 01.04.2021, i.e., in the financial year 2021-22, the said new registration shall come in force at the earliest for AY 2022-23 only. Just to buttress the above issue, your honour's kind attention is invited to para no. 5 of the circular no. 7/2024 dated 25.04.2024, which reads as under*

*“5. It is also clarified that if any existing trust, institution or fund who had failed to file Form No. 10A for AY 2022-23 within the due date as extended by the CBOT circular no. 6/2023 dated 24.05.2023 and subsequently, applied for provisional registration as a new trust, institution or fund and has received Form No. 10AC, it can avail the option to surrender the said Form No. 10AC and apply for registration for AY 2022-23 as an existing trust, institution or fund in Form No. 10A within the extended time provided in paragraph 3(1).. 30.06.2024”.....*

11 *Therefore, the denial of benefit of sections 11 and 12 for the Assessment Year 2021-22 on the ground of non-furnishing of details of fresh registration as per the law which was amended w.e.f. 01.06.2020 is unjustified and bad in law.”*

4.1 Considering the totality of facts and circumstances, it is felt that the ends of justice would be met in case the impugned order is set aside and remanded back to the file of Ld. First Appellate Authority for adjudication on the legal issues as have been spelt out in the extract from the assessee's submissions in para 4 (supra), and also on merit. We direct accordingly. The Ld. Addl./JCIT(A) would also adjudicate on other grounds taken before the ITAT, especially regarding giving of opportunity before making any adjustment under Section 143(1) of the Act.

5. In result, appeal is allowed for statistical purposes.

Order pronounced on 11.08.2025

Sd/-

**[Manomohan Das]**  
**Judicial Member**

Dated: 11.08.2025

AK, Sr. PS

Sd/-

**[Sanjay Awasthi]**  
**Accountant Member**

*Copy of the order forwarded to:*

1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches