

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, 'DB': AMRITSAR**

**BEFORE SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.510/ASR/2024  
[Assessment Year: 2024-25]**

Asha Global, 21, Paradise Green, Ajnala Road, Amritsar, Punjab-143001	Vs	CIT(Exemption), Chandigarh
<b>PAN-AABAA7942B</b>		
Appellant		Respondent

Appellant by	Shri Vipul Arora, CA
Revenue by	Shri M.S. Nethrapal, CIT-DR

<b>Date of Hearing</b>	<b>27.05.2025</b>
<b>Date of Pronouncement</b>	<b>22.08.2025</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Exemptions), Chandigarh, (hereinafter referred to 'Id. CIT(E)') dated 11.07.2024 pertaining to Assessment Year 2024-25.

2. Brief facts of the case:- The application for registration of the trust u/s. 12A(1)(ac)(v) of the I.T. Act, 1961 was filed electronically on 14.02.2024 in Form No. 10AB under Rule 17A of the I.T. Rules, 1962. The assessee had been granted order for registration in Form No. 10AC issued on 24.09.2021 under Sub-clause (i) of clause (ac) of sub-section (1) of section 12A for the period commencing from AY 2022-23 to AY 2026-27. The Id. CIT(E) issued a questionnaire on 14.06.2024 asking *inter alia* the assessee as to whether the Form10AB filed by the assessee was within

the mandate period of 30 days from the date of the said adoption or modification of the objects. In response, the assessee filed its reply that the society had changed its name from 'Amritsar Sacred Heart Alumni' to 'Asha Global' on 30.01.2023, which was approved by the Registrar of Societies on 24.11.2023. It was further submitted that objects of the society almost remained the same which are basically education, relief to the poor, medical relief and conservation of environment and the objects of the trust were reworded to bring more clarity in the MOA after the change of the name of society. It was further submitted that society had changed its name from Amritsar Sacred Heart Alumni to Asha Global on 30.01.2023, which was approved on 24.11.2023 by the Registrar of the Societies and the assessee filed Form 10ab on 14.02.2024. It was also submitted that post name change PAN with the new name was applied on 02.01.2024, which was received on 01.02.2024 as filing of Form 10AB without change of name in the records of income tax department was not possible.

2.1. The Ld. CIT(E) noted that society was created on 24.06.2010 and on perusal of the reply of the assessee that the objects of the society had changed vide MoA on 30.01.2023. Thereafter, the ld. CIT(E) reproduced the said changes as under:-

- i. *To help the deserving end poor students by providing them school fees/college fees and scholarship by distributing them books, uniforms and other education related material.*
- ii. *To provide relief to the poor by rendering them need based help, providing them help in the getting employment.*
- iii. *To provide grants to medical relief and held to poor and deserving patients by providing them financial help for medicine, medical treatment, operation or post operation treatment, blood transfusion, X-rays, pathological etc.*
- iv. *To sponsor promote and organise schemes for the protection conservation of ecology and environment as well as the promotion of*

*arts and crafts, culture and heritage upliftment, sports and activities connected therewith.*

2.2. The Id. CIT(E) also noted that though the assessee claims that there has been no modification in the objects of society, but a look at old objects falsifies its claim. The Ld. CIT(E) noted that the old objects were relating to provision of forum for alumni of the Sacred Heart School, Amritsar and connected activities as compare to the new objects as referred above. Thereafter, the Id. CIT(E) upon analysing the provisions of section 12A(1)(ac) of the Act held that the provision of section 12A(1)(ac) of the Act prescribe time limit within which the applicant is required to file application for registration of Trust/Institution depending upon the various circumstances mentioned therein. In the present case, the applicant was required to file application in Form No. 10AB u/s 12A(1)(ac)(v) of the Act within thirty days from the date of modification of objects i.e. by 01.03.2023 and that there was a delay of almost a year in filing the application. The Ld. CIE(E), therefore, held that the present application was non-maintainable and rejected the same. The Id. CIT(E) further held that this rejection will also supersede any registration granted u/s 12AB of the Act by any authority at any earlier time.

3. Aggrieved with the said order, the assessee is in appeal before us by raising the following grounds of appeal

*“1. That the worthy CIT (Exemptions), Chandigarh has erred in passing the order in Form 10AD holding that the application for registration of the trust u/s 12A(1)(ac)(v) of the Income Tax Act, 1961 was not maintainable and rejecting the same due to delay in filing the application within 30 days after the modification of the objects of the society.*

*2. That the Worthy CIT(A) failed to appreciate that the registration of the trusts could not have been rejected due to technical and procedural delay due to reasons beyond the control of appellant.”*

4. During the hearing before us, the ld. AR filed a written submission, which is reproduced as under:-

**Brief Background**

*The appellant is a charitable and non-commercial society. The society was registered under the name Amritsar Sacred Heart Alumni Majitha Road, Amritsar with Registrar Of Societies under no. 80 of 2010-11 on 24" day of June,2010, under Societies Registration Act XXI of*

*1860) and as amended by Punjab Amendment Act, 1957. The registration u/s 12AA(1)(b)(i) of the Income Tax Act, 1961 was granted to the society with effect from 01-04-2011. The order for registration u/s 12A(1)(ac)(i) by form no. 10AC was issued to the appellant on 24-09-2021 in the new regime. Later the society modified its objects and amended its name as ASHA GLOBAL and passed a resolution for modification on 30-01-2023. In order to get the new Memorandum of Association registered the appellant had to face inordinate delay due to a lot of formalities at the Registrar Of Societies office, Amritsar. The new Memorandum Of Association got registered on 07-11-2023. Along with this the PAN was also applied by the appellant due to change in society's name from Amritsar Sacred Heart Alumni to ASHA GLOBAL on 02-01-2024. But the same was delivered to the appellant on 01-02-2024. Thereafter, application for registration of trust u/s 12A(1)(ac)(v) of the Income Tax Act, 1961 was electronically filed on 14-02-2024 in form 10AB under rule 17A of IT rules 1962. The same was rejected by form no. 10AD on 11-07-2024.*

**Written Submissions**

**Ground 1 & 2**

***1. That the worthy CIT (Exemptions), Chandigarh has erred in passing the order in Form 10AD holding that the application for registration of the trust u/s 12A(1)(ac)(v) of the Income Tax Act, 1961 was not maintainable and rejecting the same due to delay in filing the application within 30 days after the modification of the objects of the society.***

***2. That the Worthy CIT(A) failed to appreciate that the registration of the trusts could not have been rejected due to technical and procedural delay due to reasons beyond the control of appellant.***

*The worthy CIT (Exemption), Chandigarh has not appreciated the facts of the case and has erred in passing the order in Form 10AD holding that the application for registration of the trust u/s 12A(1)(ac)(v) of the Income Tax Act, 1961 is not maintainable. Form 10AB was electronically filed by the appellant on 14-02-2024. No doubt it was required to be filed within 30 days from the date of modification of objects (as on 30-01-2023) i.e by 28-02-2023 but the appellant was prevented by reasonable cause for not filling the application in form 10AB in time. The appellant trust had to face*

*a lot of hardships and troubles due to lack of untimely services by the Registrar Of Societies office, Amritsar in registering the amendments. There was also no certainty as to when the same would get registered. There were a lot of formalities and despite fulfilling those formalities a lot of time was taken by the concerned authorities to issue a new certified Memorandum Of Association to the appellant trust. Moreover, it was only after the registration of new Memorandum of Association on 07-11-2023 that the appellant could apply for PAN with amended name i.e from Amritsar Sacred Heart Alumni to ASHA GLOBAL. So the Pan was applied by the appellant trust on 02-01-2024. But the Pan was delivered to the appellant on 01-02-2024. The consultant of the appellant was under impression that the fresh Form 10AB was to be filed after registration of amendment with the Office of Registrar of Societies and obtaining the fresh PAN also. The affidavit of CA of the appellant in this regard is enclosed.*

*Moreover the insertion of proviso to section 12A of Income Tax Act, 1961 by Finance (no. 2) Act, 2024 has been changed the legal position in favor of the appellant, the proviso is as follows:-*

*"Provided that where the application is filed beyond the time allowed in sub-clauses (i) to (vi), the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within time."*

*Though the proviso has been made effective from 01-10-2024, yet we can't ignore the intent of the legislature behind the insertion of this proviso. As per the memorandum explaining the provisions of Finance Bill,2024 to the Finance (No.2) Act, 2024, which is as follows:-*

***Condonation of delay in filing application for registration by trusts or institutions***

- 1. A trust or institution desirous of seeking registration under section 12AB is inter alia required to apply within timelines specified in clause (ac) of sub-section (1) of section 12A.*
- 2. It has been noted that at times trusts or institutions are unable to file application within specified timelines. In case a trust or institution is unable to apply within time specified, it may become liable to tax on accreted income as per provisions of Chapter XII-EB of the Act. A situation of permanent exit of trust or institution from the exemption regime may also arise.*
- 3. It is proposed that the Principal Commissioner/ Commissioner may be enabled to condone the delay in filing application and treat such application as filed within time. The delay may be condoned if he considers that there is a reasonable cause for the same.*
- 4. These amendments will take effect from the 1st day of October, 2024.*

*The intent of the legislature is amply clear here from that it is for the benefit of trusts to be able to file application when it has been debarred from filling due to a reasonable cause. The Principal Commissioner/Commissioner has been given powers to condone the delay in filling the application u der the above said section.*

*After the clarity of the intent other point important here as to the application of a proviso retrospectively. The proviso in question herein is for the benefit of trusts in all its respects. The legal implication of this proviso is to enable the trusts to file application, which earlier were devoid of same due to a reasonable cause. Therefore this proviso is to be applied in its beneficial sense from retrospective date.*

*For more clarity on the above said point reliance is placed on Supreme Court judgement of **ALLIED MOTORS PRIVATE LIMITED VERSUS COMMISSIONER OF INCOME-TAX T.R.C. 2 OF 1993, CA No. 3175/91 and 2380/91 Citation: [1997] 224 ITR 677 (SC),***

9. *In the case of [Goodyear India Ltd. v. State of Haryana and Anr.](#) (188 ITR 402) this court said that the rule of reasonable construction must be applied while construing a statute. Literal construction should be avoided if it defeats the manifest object and purpose of the Act.*

10 *Therefore, in the well known words of Judge learned Hand, one cannot make a fortress out of the dictionary; and should remember that statutes have some purpose and object to accomplish whose sympathetic and imaginative discovery is the surest guide to their meaning. In the case of [R.B. Jodha Mal Kuthiala v. Commissioner of Income-tax, Punjab, Jammu & Kashmir and Himachal Pradesh](#) (82 ITR 570), this Court said that one should apply the rule of reasonable interpretation. A proviso which is inserted to remedy unintended consequences and to make the provision workable, a proviso which supplies an obvious omission in the section and is required to be read into the section to give the section a reasonable interpretation, requires to be treated as retrospective in operation so that a reasonable interpretation can be given to the section as a whole.*

11 *This view has been accepted by a number of High Court. In the case of [Commissioner of Income-Tax v. Chandulal Venichand](#) ([1994] 209 ITR 7), the Gujarat High Court has held that the first proviso to [section 43B](#) is retrospective and sales-tax for the last quarter paid before the filing of the return for the assessment year is deductible. This decision deals with assessment year 1984-85. The Calcutta High Court in the case of [Commissioner of Income-tax v. Sri Jagannath Steel Corporation](#) ([1991] 191 ITR 676), has taken a similar view holding that the statutory liability for sales-tax actually discharge after the expiry of accounting year in compliance with the relevant statute is entitled to deduction under [Section 43B](#). The High Court has held the amendment to be clarificatory and, therefore, retrospective. The Gujarat High Court [in the above case](#) held the amendment to be curative and explanatory and hence retrospective. The Patna High Court has also held the amendment inserting the first*

*proviso to be explanatory in the case of Jamshedpur Motor Accessories Stores v. union of India and Ors. ([1991] 189 ITR 70.), It was held that amendment inserting first proviso to be retrospective. The special leave petition from this decision of the Patna High Court was dismissed. The view of the Delhi High Court, therefore, that the first proviso to [section 43B](#) will be available only prospectively does not appear to be correct. As observed by G.P. Singh in his Principles of statutory Interpretation, 4th Edn. Page 291, "It is well settled that if a statute curative or merely declaratory of the previous law retrospective operation is generally intended." In fact the amendment would not serve its object in such a situation unless it is construed as retrospective. The view, therefore, taken by the Delhi High Court cannot be sustained.*

*12. In the premises the appeals are allowed and the Income- tax references are answered in favour of the assesseees and against the revenue. In the circumstances, however, there will be no order as to costs.*

***Reliance is also placed in the case of Commissioner of Income Tax-1 Versus Ansal Land Mark Township (P) Ltd.[2015] 377 ITR 635 (Del)***

*13. Turning to the decision of the Agra Bench of ITAT in [Rajiv Kumar Agarwal v. ACIT](#) (supra) , the Court finds that it has undertaken a thorough analysis of the second proviso to [Section 40 \(a\)\(ia\)](#) of the Act and also sought to explain the rationale behind its insertion. In particular, the Court would like to refer to para 9 of the said order which reads as under:*

*"On a conceptual note, primary justification for such a disallowance is that such a denial of deduction is to compensate for the loss of revenue by corresponding income not being taken into account in computation of taxable income in the hands of the recipients of the payments. Such a policy motivated deduction restrictions should, therefore, not come into play when an assessee is able to establish that there is no actual loss of revenue. This disallowance does de-incentivize not deducting tax at source, when such tax deductions are due, but, so far as the legal framework is concerned, this provision is not for the purpose of penalizing for the tax deduction at source lapses. There are separate penal provisions to that effect. De-incentivizing a lapse and punishing a lapse are two different things and have distinctly different, and sometimes mutually exclusive, connotations. When we appreciate the object of scheme of [section 40\(a\)\(ia\)](#), as on the statute, and to examine whether or not, on a "fair, just and equitable" interpretation of law- as is the guidance from Hon'ble Delhi High Court on interpretation of this legal provision, in our humble understanding, it could not be an "intended consequence" to disallow the expenditure, due to non deduction of tax at source, even in a situation in which corresponding income is brought to tax in the hands of the recipient. The scheme of [Section 40\(a\)\(ia\)](#), as we see it, is aimed at ensuring that an expenditure should not be allowed as deduction in the hands of an assessee in a situation in which income embedded in such expenditure has remained untaxed due to tax withholding lapses by the assessee. It is not, in our considered view, a penalty for tax withholding lapse but it is a sort of*

*compensatory deduction restriction for an income going untaxed due to tax withholding lapse. The penalty for tax withholding lapse per se is separately provided for in Section 271 C, and, section 40(a)(ia) does not add to the same. The provisions of Section 40(a)(ia), as they existed prior to insertion of second proviso thereto, went much beyond the obvious intentions of the lawmakers and created undue hardships even in cases in which the assessee's tax withholding lapses did not result in any loss to the exchequer. Now that the legislature has been compassionate enough to cure these shortcomings of provision, and thus obviate the unintended hardships, such an amendment in law, in view of the well settled legal position to the effect that a curative amendment to avoid unintended consequences is to be treated as retrospective in nature even though it may not state so specifically, the insertion of second proviso must be given retrospective effect from the point of time when the related legal provision was introduced. In view of these discussions, as also for the detailed reasons set out earlier, we cannot subscribe to the view that it could have been an "intended consequence" to punish the assesseees for non deduction of tax at source by declining the deduction in respect of related payments, even when the corresponding income is duly brought to tax. That will be going much beyond the obvious intention of the section. Accordingly, we hold that the insertion of second proviso to Section 40(a)(ia) is declaratory and curative in nature and it has retrospective effect from 1st April, 2005, being the date from which sub clause (ia) of section 40(a) was inserted by the Finance (No. 2) Act, 2004."*

*14. The Court is of the view that the above reasoning of the Agra Bench of ITAT as regards the rationale behind the insertion of the second proviso to Section 40(a) (ia) of the Act and its conclusion that the said proviso is declaratory and curative and has retrospective effect from 1st April 2005, merits acceptance.*

*Therefore, a proviso introduced for the benefit of an assessee has to be read and understood as declaratory curative in nature and be applied retrospectively for the benefit of the assessee. Hence, in the present case also keeping in mind the intent of the legislature behind the insertion of this proviso to section 12A (benefit of trusts to be able to file application, which were unable to file in the given time limits), it is prayed that the CIT(Exemption) be directed to condone the delay in filling the application and decide the case on merit".*

5. In view of the above decisions, it was submitted that a proviso introduced for the benefit of an assessee has to be read and understood as declaratory and curative in nature and has to be applied retrospectively for the benefit of the assessee. It was submitted that in the present case also keeping in mind the intent of the legislature behind the insertion of this proviso to section 12A (benefit of trusts to be able to file

application, which were unable to file in the given time limits), and prayed that the CIT(Exemption) be directed to condone the delay in filling the application and decide the case on merits.

6. The ld. CIT-DR relied upon the orders of the authority below.

7. We have heard both the parties and perused the material available on record. On perusal of the order of the Ld. CIT(E), it is seen that the assessee was not given any show cause notice before rejecting the application on the ground that the application for registration of Trust/Institution Form No. 10AB u/s 12A(1)(ac)(v) of the Act was not filed within thirty days from the date of modification of objects i.e. by 01.03.2023 (which was amended on 30.01.2023) and that there was a delay of almost a year in filing the application. In this regard, the assessee in its written submission explaining the reasons for the said delay stated that the trust had to face a lot of hardships and troubles due to lack of untimely services by the Registrar of Societies office, Amritsar in registering the amendments and there was also no certainty as to when the same would get registered. It was further submitted that there were a lot of formalities and despite fulfilling those formalities a lot of time was taken by the concerned authorities to issue a new certified Memorandum of Association to the appellant trust. Further, it was submitted that moreover, it was only after the registration of new Memorandum of Association on 07-11-2023 that the appellant could apply for PAN with amended name i.e from Amritsar Sacred Heart Alumni to ASHA GLOBAL and the Pan was applied by the appellant trust on 02-01-2024 which was delivered to the appellant on 01-02-2024. It was further submitted that the consultant of the appellant was under impression that the fresh

Form 10AB was to be filed after registration of amendment with the Office of Registrar of Societies and obtaining the fresh PAN also and enclosed an affidavit of the CA. The said affidavit of CA of the appellant is reproduced hereunder:-

Certificate No. IN-PB96028131684484X

AFFIDAVIT

Before the Hon'ble Income Tax Appellate Tribunal,  
Amritsar Bench,  
Amritsar

In the matter of

(Appellant)  
ASHA GLOBAL  
21, Paradise Green Ajnala Road,  
AMRITSAR.  
PAN: AABAA7942B

Vs.

Commissioner of Income Tax (Exemption)  
Chandigarh  
(Respondent)

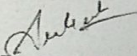
I, .CA Deepak Kumar Arora s/o Sh. Madan Lal Arora , Shop No. 44, 3<sup>rd</sup> Floor, Nehru Shopping Complex, Amritsar, do hereby solemnly affirm and state as follows:

1. I am filing this affidavit in connection with ITA 510/ASR/2024 in the name of ASHA Global.
2. The appeal was filed 07-09-2024 and is next hearing is on 16-01-2025 .
3. In this case modification in objects and amendment of the name of the society from Amritsar Sacred Heart Alumni to Asha Global was required to be registered u/s 12A(1)(ac)(v) of the Income Tax Act, 1961 in form 10AB under rule 17A of I.T rules 1962.

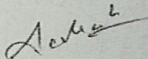
*Arora*

4. I being a C.A was under a genuine belief that the same is required to be filed once all the documents with respect to the modification are complete i.e after registration of the new Memorandum Of Association and issuance of new PAN .

5. I in good faith believed the same to be filed within 30 days from the date of completion of amended documents required for filling.

  
Deponent

I further declare that the above stated statements/declaration is true to the best of my knowledge & information & nothing has been concealed by me.

  
Deponent

Place : Amritsar

Date : 09.01.2025

7.1. In view of the above facts, the assessee submitted that the delay in filing the said application may be condoned by the Ld. CIT(E) and the Id. CIT(E) may be directed to decide the application of the assessee trust on merit. In this regard, the assessee has relied upon the provisions relating to insertion of proviso to section 12A of the Act by Finance (no.2) Act 2024 which it submits has changed the legal position in favour of the assessee. The said proviso is as follows:-

*"Provided that where the application is filed beyond the time allowed in sub-clauses (i) to (vi), the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application,*

*condone such delay and such application shall be deemed to have been filed within time."*

7.2. Though the proviso has been made effective from 01-10-2024, but we are of the considered view that the intent of the legislature behind the insertion of this proviso is to enable the Id. CIT(E) to condone the delay of applications filed in suitable cases, where there was a reasonable cause for the delay in filing the application. Further, as per the memorandum explaining the provisions of Finance Bill, to the Finance (No.2) Act, 2024, as reproduced above in the assessee's submissions in para no.4 of this order and the decisions relied by the assessee in its written submissions, we are of the considered view that the assessee is entitled for condonation of the delay in filing Form No.10AB if the Id. CIT(E) is satisfied that the delay in filing of the application was due to the reasonable cause as explained by the assessee as provided in the above proviso. We, therefore, in the interest of justice, set-aside the order of the Ld. CIT(E) and restore the matter to his file to consider condoning the delay in filing the application and if so satisfied to decide the application of the assessee on merits.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced as per Rule 34(4) of the ITAT Rules, 1963 on 22<sup>nd</sup> August, 2025.

**Sd/-**  
**[UDAYAN DAS GUPTA]**  
**JUDICIAL MEMBER**

**Dated** 22.08.2025.

*Shekhar*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(E)

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

5. DR

Asst. Registrar,  
ITAT, Amritsar