



IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, RAIPUR

BEFORE HON'BLE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No. 484 & 485/RPR/2025

Swargiya Shri Madan Lal Juneja Ji
Memorial Naitrath Society
3rd Floor, Thread View Parisar,
Ward No.-14, Vinoba Nagar Bilaspur.
PAN: ABTAS6137P

.....Appellant

V/s

Commissioner of Income Tax,
Exemption, Bhopal, MP

.....Respondent

Appearances

Assessee by: Mr SR Rao ['Ld. AR']

Revenue by: Ms Manisha Kinnu ['Ld. DR']

Date of conclusive Hearing : 10/09/2025

Date of Pronouncement : 10/09/2025

ORDER

PER G. D. PADMAHSHALI,

By present twin appeals, the assessee impugns separate orders of rejection passed by Commissioner of Income Tax, Exemption, Bhopal ['Ld. CIT(E)'] u/s 12A(1)(ac)(vi) and u/s 80G(5) of the Income Tax Act, 1961 [in short 'the Act'] vide DIN & Order No. ITBA/EXM/F/EXM45/2025-26/1077799054(1) & 1077798574(1) both dt. 25/06/2025.



2. Since facts & solitary issue involved in these twin appeals are identical, common & interrelated, on the rival party's request, for the sake of brevity these are heard together for a common and consolidated order.

3. **Tersely stated facts borne out of case record are that;** the assessee was granted a provisional registration u/s 12A(1)(ac)(vi) of the Act on 02/11/2024 & similarly provisional 80G registration was granted on 03/11/2024. Pursuant to former provisional registrations the assessee filed separate applications in Form No 10AB on 25/12/2024 thereby sought grant of regular registration u/s 12AB and registration certificate u/s 80G(5)(iii) of the Act under the category of charitable society / institution. The said twin applications by the impugned separate orders were rejected by the Ld. CIT(E) on a common and solitary ground that provisional registration was invalid. Aggrieved thereby the assessee came in present separate appeals.



4. During the course of hearing Ld. Senior Counsel Mr Rao submitted that, the assessee commenced its activities much prior to grant of provisional registration and therefore pursuant to provisions of law the application for grant of regular registrations in both cases were filed within six months from the grant of provisional registration and much before the expiry of period of provisional registration too. The twin applications seeking regular registration are well within prescribed time limit, however losing site to the correct position of law, the Ld. CIT(E) rejected the applications. Further it was submitted that, without prejudice even if provisional registration was invalidly granted, the Ld. CIT(E) did provide no opportunity of hearing before coming to conclusion to reject these applications. In this scenario the impugned orders suffer from the compliance of principle of natural justice, it is therefore prayed that, these applications may be restored for *de-novo* consideration on merits with a direction to accord three effective hearings.



5. *Au contraire* the Ld. DR Ms Kinnu solidified that the applications seeking regular registration u/s 12AB and 80G(5) of the Act made within a period of six months post grant of provisional registration u/s 12A(1)(ac)(vi) and 80G(5) of the Act. However it was averred on behalf of Revenue that, since the activities of the assessee were actually commenced on 11/02/2022 that was much before even grant of provisional registrations. After 01/10/2023 the provisions for grant of provisional registration applies to only the assessee whose activities have yet to be commenced. Since the assessee in first place was not entitled to provisional registration under the provisions of law, therefore continues to be disentitled for regular registration as well. The inadvertent grant of provisional registration shall in no case create any right or entitlement in favour of disqualified assessee. Therefore, the Ld. CIT(E) well within the law to reject the application as barred by entitlement and barred by limitation.



6. We have heard the rival party's submission and subject to rule 18 of ITAT-Rules, 1963 perused the material placed on records and considered the facts of the case in the light of settled position of law.

7. In the present case, we noted that, the appellant assessee was established/commenced its operation/activities on/w.e.f. 11/02/2022 and provisional registration u/s 12AB and u/s 80G(5) of the Act was granted to it by an effective order dt. 02/11/2024 & 03/11/2024 respectively. Such provisional registrations were in force as on the date when separate applications seeking regular registration were filed with the Ld. CIT(E). Indisputably neither provisional registration granted u/s 12AB nor provisional registration granted 80G(5) of the Act were revoked or cancelled anytime until the applications for regular registration were filed by the appellant. Further as solidified by the Revenue there were no pending proceedings in relation to revocation or cancellation of provisional registration.



8. In view of the former clinching facts, in adjudicating the issue of entitlement *qua* eligibility and limitation for better appreciation at the outset we deem it necessary to extract relevant portion of section 12A and 80G of the Act as;

Section 12A(1)(ac) of the Act;

(iii) where the trust or institution has been provisionally registered under section 12AB, 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

(Emphasis supplied)

Proviso to section 80G(5);

(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;'

(Emphasis supplied)

9. The unadorned reading of former provisions clearly suggests us that, where once a provisional registration u/s 12AB and 80G(5) is granted to an assessee, the aforestated both clauses (iii) (supra) obligates such assessee for making an



application for regular/final registration within stipulated a period of six months of occurrence of either events i.e. (1) at least six months prior to expiry of the period of the provisional approval or (2) within six months after the activities are commenced.

10. We note that; in the present case, the appellant was accorded provisional registration after vouching eligibility & entitlement, therefore. Once such provisional registrations are validly granted to the assessee and such provisional are effective or in force in law, then only recourse available to the Revenue is to revoke or cancel the same following due process of law. In the absence of any such proceedings initiated for revocation or cancellation of provisional registration granted previously, then it is not open for Ld. CIT(E) to turn down such provisional registrations while dealing with subsequent application filed for regular registration. The action of the Ld. CIT(E) therefore suffered from jurisdiction.



11. In the present case the since twin applications seeking regular registrations were filed after passing the test of entitlement/eligibility and further within the time limit prescribed in terms of clause (iii) (supra), therefore such applications are validly maintainable for their consideration on merits. In view therefore, the impugned orders rejecting those applications for invalidity in provisional registration is set-aside for their remand with a direction to treat them as validly filed and deal therewith on merits after according three effective opportunities to the appellant assessee in each case.

12. In result, the twin appeals of the assessee are allowed for statistical purposes.

In terms of rule 34 of ITAT Rules, 1963, the order pronounced in the open court on date mentioned herein before.

-S/d-

**PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER**

Panaji/Dt: 10th September, 2025.

Copy of the Order forwarded to :

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|-------------------|---------------------------|
| 1. The Appellant. | 2. The Respondent. |
| 4. PCIT Concerned | 5. DR, ITAT, Raipur Bench |

-S/d-

**G. D. PADMAHSHALI
ACCOUNTANT MEMBER**

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| 3. The CIT(A)/NFAC Concerned |
| 6. Guard File |

By Order,
Sr. Private Secretary / AR ITAT, Raipur