



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, RAIPUR**  
*(through hybrid hearing)*

**BEFORE HON'BLE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**  
**AND**

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**ITA No. 457 & 463/RPR/2025**

Samarpit Seva Sanstha,  
0 Mohammad Aslam Sarif, Patnampara,  
Near Masjid, Sukma-494111, Chhattisgarh  
PAN: ABNAS7731B

**.....Appellant**

**V/s**

The Income Tax Commissioner,  
Exemption, Bhopal

**.....Respondent**

**Appearances**

Assessee by: Mr Aakash Parakh, Adv. ['Ld. AR']

Revenue by: Mr Saad Kidwai ['Ld. DR']

Date of conclusive Hearing : 17/09/2025

Date of Pronouncement : 17/09/2025

**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)(iii) r.w. 12AB(1)(b)(ii)(B) and 80G(5)(iii) of the Income Tax Act, 1961 [in short 'the Act'] vide DIN & Order No. ITBA/EXM/F/EXM45/2025-26/1077303348 (1) & 1077303436 (1) both dt. 21/06/2025.



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 10/01/2024. Pursuant to former provisional registrations the assessee filed separate applications in Form No 10AB on 12/03/2025 thereby sought grant of regular registration u/s 12AB of the Act and on even date provisional 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. Counsel Mr Parakh 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 sight 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 Mr kidwai 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 much before grant of provisional registration to the appellant assessee. 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 note that, the appellant commenced its operation much before the grant of provisional registration to it u/s 12AB of the Act. Such provisional registration was admittedly in force at the time when application of regular registration u/s 12AB of the Act and provisional registration u/s 80G(5) of the Act were filed with the Ld. CIT(E). Indisputably provisional registration granted u/s 12AB of the Act was neither revoked nor any proceedings for cancellation thereof were initiated any time during the pendency thereof. Further as solidified by the Ld. DR Mr. Kidwai that there are no proceedings in relation to revocation or cancellation of provisional registration pending as on the date when the impugned orders were passed.



8. We note that a similar issue came for consideration before the Ld. Coordinate bench in ‘*Swargiya Shri Madan Lal Juneja Ji Memorial Naitrath Society Vs CIT(E)*’ [ITA No. 484 & 485/RPR/2025 dt 10/09/2025] wherein the appeal of the assessee was allowed for statistical purposes holding that the Ld. CIT(E) ceases to have any jurisdiction over the grant of provisional registration pursuant to which application for regular registration u/s 12AB of the Act and application for provisional u/s 80G(5) of the Act filed before him. The relevant text from the order is reproducing herein below:

“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 aforesaid 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.”*

9. Respectively following the former coordinate bench decision, we set aside the impugned orders for their remand to the file of Ld. CIT(E) with the same direction.

**10. In result, these 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**

Raipur/Dt: 17<sup>th</sup> 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. PADMAHALI**  
**ACCOUNTANT MEMBER**

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

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