

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.1943 & 67/Chny/2025  
निर्धारणवर्ष/Assessment Year: -

Virudhunagar Hindu Tholan, 60, South Car Street, Virudhunagar-626 001.	v.	The CIT(E), Chennai.
[PAN: AAATV 4874 B]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.P.M. Kathir, Advocate & Mr.G. Akash, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Bipin C.N., CIT
सुनवाईकीतारीख/Date of Hearing	:	28.08.2025
घोषणाकीतारीख /Date of Pronouncement	:	26.09.2025

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

These are appeals preferred by the assessee society against the order of the Learned Commissioner of Income Tax (Exemption)/NFAC, (hereinafter referred to as "the Ld.CIT(E)"), Chennai, dated 27.06.2025 rejecting the registration sought u/s.12AB of the Income Tax Act, 1961 (hereinafter referred to as "the Act") & ITA No.67/Chny/2025 is against the order of the Ld.CIT(E), Chennai, dated 21.12.2024 rejecting approval



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u/s.80G of the Act on the ground that the assessee society didn't enjoy registration u/s.12AB of the Act.

**ITA No.1943/Chny/2025:**

2. The brief facts are that the assessee society filed application dated 30.12.2024 seeking registration u/s.12AB of the Act which was rejected by the Ld.CIT(E) on the ground that the assessee didn't respond to the show cause notice issued on 30.05.2025. According to the assessee, it was enjoying registration u/s.12A(a) of the Act from 12.03.1997, which was granted by the Commissioner of Income Tax, Madurai by order dated 12.03.1997. Due to change in regime, the assessee applied for registration u/s.12AB of the Act and the Ld.CIT(E) is noted to have called for certain documents to prove the genuineness of the activities of the society which the assessee couldn't furnish since the custodian of the relevant documents was out of station which omission led the Ld.CIT(E) to reject the application for want of relevant documents. Further, the Ld.CIT(E) on the basis of documents filed by the assessee, drew adverse view against the assessee to hold (i) that income of the assessee was not used for the object of the assessee society & (ii) that the assessee is engaged in commercial activity by letting out the Kalyana Mandapam. According to the Ld.AR, the aforesaid findings are erroneous and given an opportunity, assessee would be able to convince the Ld.CIT(E) the correct



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facts as well as the objects of the assessee; The Ld.AR further pointed out that Kalyana Mandapam is not run on profit and to buttress this fact drew our attention to the financials of the assessee, which show that expenditure is more than the income. Hence, the Ld.AR prayed for one more opportunity to present the documents called for by the Ld.CIT(E). Before us, the assessee is noted to have filed written submissions asserting that its activities will fall under the provisions of Sec.2(15) of the Act and therefore, deserved registration u/s.12AB of the Act and pleaded that if one more opportunity is granted, assessee would be able to demonstrate the same and submitted the following written submissions which is reproduced as under:

1. The above appeals have been filed challenging the denial of registration u/ss.12A and 80G of the Act. The registration u/s.12AB of the Act was denied for the reason that the appellant is not carrying out any charitable activities and the registration u/s.80G of the Act was denied for the reason that the appellant did not possess registration u/s.12AB of the Act. Hence, if the appeal in ITA 1943/Chny/2025 wherein the order denying registration u/s.12AB of the Act is being challenged is adjudicated, the same will follow for the other appeal challenging the denial of registration u/s.80G of the Act. Our submissions against the denial of registration u/s.12AB of the Act are as below;
2. The crux of the reason for which the CIT(E) has denied registration u/s.12AB of the Act is extracted below;

*When the Income and Expenditure account read with the objects of the society as per Form 10AB, it is evident that **no part of the generated income was utilised for the objects of the society.***

*Therefore, it is held that the **society is generating income by letting out kalyanamandam in commercial way** on by camouflaging income into electrical charges, gas, extra room rent, damages, cleaning charges, gas service charges instead of booking it as rent.*

3. The CIT(E) has concluded that;
  - 3.1. No income was utilized for objects of the society, and



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3.2. Income was being generated by letting out the kalyanamandapam in a commercial way.

**4. Income utilized for the objects of the society:**

4.1. The CIT(E) has incorrectly concluded that the income has not been utilized for the objects of the society without appreciating the objects and the activities actually carried out by the society. The very 1<sup>st</sup> object of the society is to establish, maintain and run a community hall. The CIT(E) has also taken note of the fact that the appellant is running a kalyanamandapam wherein various functions are celebrated. This being the case, the CIT(E)'s assertion that the appellant is not carrying out any activities in line with its objects is baseless and incorrect. Hence, this reasoning fails.

**5. Kalyanamandapam let out in a commercial manner:**

5.1. Secondly, the CIT(E) has concluded that the appellant is letting out the kalyanamandapam in a commercial manner. The CIT(E) has come to this conclusion without properly appreciating the facts of the case and financials of the appellant. The activity carried out by the appellant is letting out the kalyanamandapam and for the same the appellant only collects charges to cover the costs incurred by it.

5.2. The CIT(E) has observed in his order that "*the society is generating income by letting out kalyanamandam in commercial way on by camouflaging income into electrical charges, gas, extra room rent, damages, cleaning charges, gas service charges instead of booking it as rent.*"

5.3. The CIT(E) has failed to appreciate the fact the provisions of the Act do not require institutions to carry out any activity / service free of cost. The appellant is entitled to collect charges for the activities that it carries out and the service that it provides. The only requirement is that the appellant does not collect charges in profit-making manner (i.e.) only to cover the costs that it incurs for providing the services.

5.4. As rightly observed by the CIT(E), the appellant only collects charges for gas, electricity and rent for extra room. These are to only cover the costs that the appellant incurs for running and letting out the kalyanamandapam. The appellant has not let out its kalyanamandapam with an intent to make profit, which is clear from its financials for the last 3 years which were filed with and observed by the CIT(E). The appellant had for all these 3 years incurred excess of expenses over income, which is tabulated hereunder;

#	AY	Excess of expenses
1	2022-23	4,76,655
2	2023-24	36,021
3	2024-25	79,572



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5.5. As is evident, the appellant has consistently incurred excess of expenditure over income for all the preceding years. Had the appellant let out the kalyanamandapam in a commercial manner, it would have done so in a manner that it actually earned profits. However, that is not the case here.

5.6. Even the Hon'ble Supreme Court had in **Asstt. CIT(Exemptions) v. Ahmedabad Urban Development Authority [2022] 449 ITR 1 (SC)**, held as under;

*"190. It may be useful to conclude this section on interpretation with some illustrations. The example of Gandhi Peace Foundation disseminating Mahatma Gandhi's philosophy (in Surat Art Silk CIT v. Surat Art Silk Cloth Manufacturers' Assn., (1980) 2 SCC 31 : 1980 SCC (Tax) 170) through museums and exhibitions and publishing his works, for nominal cost, ipso facto is not business. Likewise, providing access to low-cost hostels to weaker segments of society, where the fee or charges recovered cover the costs (including administrative expenditure) plus nominal markup; or renting marriage halls for low amounts, again with a fee meant to cover costs; or blood bank services, again with fee to cover costs, are not activities in the nature of business. Yet, when the entity concerned charges substantial amounts—over and above the cost it incurs for doing the same work, or work which is part of its object (i.e. publishing an expensive coffee table book on Gandhi, or in the case of the marriage hall, charging significant amounts from those who can afford to pay, by providing extra services, far above the cost plus nominal markup) such activities are in the nature of trade, commerce, business or service in relation to them. In such case, the receipts from such latter kind of activities where higher amounts are charged, should not exceed the limit indicated by proviso (ii) to Section 2(15).*

5.7. Even the Hon'ble SC had made it abundantly clear that only when significant profits are being reaped can it be termed that the activities are commercial in nature and not when charges are collected to cover the costs incurred in providing its services.

5.8. The Hon'ble Chhattisgarh High Court had in **Ramswaroop Das Niranjanal Charitable Trust vs. DCIT [2025] 174 taxmann.com 590 (Chhattisgarh)** held as under;

**28. In the instant case, it is the case of the assessee that renting of marriage hall was done on a cost-basis or nominally above cost to cover up the expenditure, which has not been considered by all the authorities and merely by holding that Rs. 15,89,163/- was received by the assessee Trust, the authorities have proceeded to hold that Rs. 2,20,247/- was liable to tax. In our considered opinion, the Dharamshala was let out for charitable purpose mentioned in the trust deed on a cost-basis or nominally above cost to cover up the charges as demonstrated by the assessee and the primary and predominant object of the Trust was charitable. Furthermore, it has been shown by the appellant/assessee**



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**that the appellant Trust has adopted the mercantile system of accounting for the financial year 2010-11 (assessment year 2011-12) for which depreciation of Rs. 8.55 lakhs is to be accepted which the authorities have not accepted**, same ought to have been allowed as depreciation being notional expenditure in light of the decision of the Supreme Court in *Rajasthani and Gujarati Charitable Foundation, Poona's case (supra)* and that of the M.P High Court in *Raipur Pallottine Society's case (supra)*. As such, on both the counts, the finding of the learned authorities that proviso to Section 2(15) of the Act would apply, is contrary to the facts and law available on record.

5.9. Thus, clearly it can be concluded that the appellant has not let out its kalyanamandapam in a commercial manner.

6. Thus, the observations of the CIT(E) to reject the application for registration in the impugned order in ITA No.1943/Chny/2025 being incorrect, it is prayed that the Hon'ble Tribunal may direct the CIT(E) to grant the appellant registration u/s.12AB of the Act and consequently also u/s.80G of the Act.

**3.** Per contra, the Ld.DR doesn't want us to give one more innings to the assessee.

**4.** Having heard both the parties and after perusal of the records, we note that the assessee-society is enjoying registration u/s.12A(a) of the Act since 12.03.1997; and after change of the regime, has applied for registration u/s.12AB of the Act by filing application dated 30.12.2024 which was rejected by the Ld.CIT(E) on the ground that the assessee didn't respond to the show cause notice issued by him on 30.05.2025. In this regard, the Ld.CIT(E) is noted to have called for certain relevant documents to ascertain the genuineness of the activities of the assessee-society and since, the assessee failed to furnish the same, the Ld.CIT(E) is noted to have taken adverse view to hold that assessee didn't utilize it's income for the object of the society and also viewed the running of



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Kalyana Mandapam as commercial activity. In the absence of relevant documents called for by him, the Ld CIT(E) rejected the application. The assessee before us submitted that omission to file relevant documents or failure to explain the activities of the assessee was because, the custodian of the relevant documents was out of station which resulted in the assessee not able to furnish proper reply to the show cause notice issued by the Ld.CIT(E). Be that as it may, since the assessee is noted to be an old trust enjoying registration from the year 1997, for the interest of justice and fair play, one more opportunity needs to be granted to the assessee. The Ld.AR has undertaken to file all the relevant documents called for by the Ld.CIT(E) and participate in the proceedings before the Ld.CIT(E). Therefore, we deem it fit to set aside the impugned order of the Ld.CIT(E) and restore the application back to his file for de novo consideration in accordance to law after hearing the assessee.

**5.** In the result, appeal filed by the assessee in ITA No.1943/Chny/2025 is allowed for statistical purposes.

**ITA No.67/Chny/2025:**

**6.** This is an appeal filed by the assessee against the action of the Ld.CIT(E) rejecting the approval sought u/s.80G of the Act. In this regard, it is noted that the Ld.CIT(E) has rejected the application by order dated 21.12.2024 on the ground that the assessee didn't enjoy



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registration u/s.12AB of the Act. Since we have restored the application back to the file of the Ld.CIT(E) for considering grant of registration u/s.12AB of the Act (supra), the impugned action of the Ld.CIT(E) is set aside and the application for registration u/s.80G of the Act is restored back to his file and the Ld.CIT(E) is directed to examine and consider grant of approval u/s.80G of the Act after considering the application filed for registration u/s.12AB of the Act.

**7.** In the result, appeal filed by the assessee in ITA No.67/Chny/2025 is allowed for statistical purposes.

**8.** In the result, appeals filed by the assessee in ITA Nos.1943 & 67/Chny/2025 are allowed for statistical purposes.

Order pronounced on the 26<sup>th</sup> day of September, 2025, in Chennai.

**Sd/-**

(जगदीश)

**(JAGADISH)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26<sup>th</sup> September, 2025.

**TLN**

आदेश की प्रतिलिपि अग्रेषित /Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF