

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A No.3486/Del/2024
निर्धारणवर्ष/Assessment Year: 2024-2025**

SHRI ARORVANSH SEWA SADAN Parshuram Chowk, Hissar Road, SIRSA, HARYANA. PAN No.ABCTS4252P	बनाम Vs.	CIT (EXEMPTIONS), Room No.1, 5 th Floor, C.R. Building, Himalaya Marg, Sector-17-E, Chandigarh.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Sudhir Sehgal, Adv.
Revenue by	Shri Mahesh Kumar, CIT DR

सुनवाईकीतारीख/ Date of hearing:	19.08.2025
उद्घोषणाकीतारीख/Pronouncement on	26.09.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Assessee against the order of the Ld. CIT(Exemptions), Chandigarh dated 11.06.2024 in denying registration u/s 12A of the Act.

2. Ld. Counsel for the assessee, at the outset, submitted that a query dated 26.04.2024 was raised by Ld.CIT(Exemptions), Chandigarh seeking certain information from the assessee and in

response to the said query the assessee duly submitted on 05.06.2024 complete details which were mentioned by the Ld. CIT(Exemptions) at page 6 para 4 of the impugned order. The copy of the reply is also placed at page 39 & 40 of the Paper Book. Ld. Counsel submitted that after assessee filing its reply no additional query specific to the activities of the trust was raised by the Ld. CIT(E) till the rejection of the application vide order dated 11.06.2024. Ld. Counsel for the assessee submitted that the Ld. CIT(E) while rejecting the application of the assessee alleging that the assessee has failed to prove carrying out of charitable activity and in absence of corroborating evidence, made him difficult to ascertain genuineness of activities. Whereas the assessee has duly furnished the financial statements for AY 2021-22 to 2024-25 which are placed at pages 35 to 38 of the Paper Book along with the bank statements evidencing the construction of Dharamshala in FY 2023-24 since the possession of the land was given only on 31.07.2023. Therefore, the Ld. Counsel for the assessee submitted that the Ld. CIT(E) without providing reasonable opportunity rejected the application for registration on the premise that the assessee was not carrying out

any activities which is factually incorrect. Ld. Counsel for the assessee also made the following elaborate submissions:

- 1. "At the outset, we wish to submit that the assessee trust was incorporated in 2011 and had applied for the allotment of land to the Chief Administrator, Haryana State Agricultural Marketing Board, Pahchkula for the construction of Dharamshala. The said land was allotted to the Assessee vide letter dated 20.05.2011 in the name of M/s Arorvansh Sabha, however, the approval of the said land was finally granted vide letter dated 27.08.2020 (both the letters are placed at Page No. 25-26 of the Paper Book). Thereafter, the deed was registered on 03.03.2022, copy of the registered deed is placed at Page No. 27-33 of the paper book and only .then, the possession was transferred. Further, the Arorvansh Sabha transferred such land to the Assessee Trust for carrying out the activities vide letter dated 31.07.2023, placed at page no. 34 of the paper book. It is only due to the said fact that the building is still under construction as it began only after the possession of the land was received by the assessee trust.*
- 2. Further, the activities of the Appellant Trust have been duly recognized by State Government and the Trust has been given grants in 2024 for construction of Dharamshala for carrying out its charitable activities, copies of the grants placed at Page No. 76 to 77 of the Paper Book. The Deputy Commissioner, Sirsa, Haryana vide its letter dated 05.06.2023 gave grant of Rs. 21,00,000/- and The Chief; Executive Officer, DRDA, Sirsa vide its letter dated 25.01.2024 gave grant of Rs. 5,00,000/- (placed at Page No. 76 - 77 of the Paper Book) for construction work. The Assessee is actively deploying funds received for the construction of building and the photographs in respect of the same are placed at Page No. 68 - 73 of the Paper Book.*
- 3. Therefore, it is again clarified that the construction activity is not yet complete since the Assessee trust got the possession of the land only in 2023 and has been actively engaged in carrying out the activities as per aims and objects of the Trust, it is worth mentioning here that the*

Worthy CIT(Ex.) has raised no doubt on the aims and objects of the trust.

4. *The Worthy CIT(Ex.) has wrongly concluded that the assessee has failed to show carrying out charitable activities even when the complete bank statements evidencing the construction of building for carrying out the aims and objects were duly furnished vide reply to the questionnaire. It is also worth submitting here that the application of the Appellant has been rejected just by stating that the Assessee Trust is still spending on construction of building without doing any other charitable work as outlined in its trust deed.*
5. *The another important fact of the case is that the Worthy CIT(Ex.) should have raised a specific query during the course of the proceedings if the Worthy CIT(Ex.) was not satisfied with the information furnished by the Appellant against the questionnaire issued. However, no such additional information was sought. So, it is clear that it was just for the sake of rejecting the application that the Worthy CIT(Ex.) gave such finding with respect to the activities of trust, despite the fact that the detailed submissions supported with evidences.*
6. *Now, we wish to invite your Honor's kind attention is invited to the provisions of Section 12AB(1)(b) of the act, which reads as under:*

12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,—

(a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,—

(i) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of the trust or institution; and

(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects; and

(ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A), and compliance of the requirements under item (B), of sub-clause (i),-

(A) pass an order in writing registering the trust or institution for a period of five years;

(B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard:

(c) where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.

From a bare reading of the above provisions, it is clear that no order rejecting the application of the assessee can be passed without affording a reasonable opportunity of being heard even if the Authority is not satisfied with the explanation/activities of the Assessee Society/ Trust.

- 7. Therefore, keeping in view the provisions of the law in the instant case, if the Worthy CIT(Ex.) Chandigarh was not satisfied with the explanation provided by the Appellant during the course of the proceedings, then a reasonable opportunity should have been given to the Appellant to*

establish the genuineness and charitable nature of the activities of the Trust. However, it was only on the basis of the reply to the general questionnaire issued to the Appellant that the application was rejected. The appellant duly submitted the response to each and every query as admitted by the Worthy CIT(Ex.) in its Order vide Para 3 at Page 6 of the Order, however, no further query was ever raised before rejecting the application of the Appellant.

- 8. Had the Worthy CIT(Ex.) any query as to why the assessee trust is still undergoing construction of building ever after a decade Of incorporation as mention in Para 5 at Page 7 of the order, the assessee should have been given an opportunity to explain the facts and circumstances of the case. However, no explanation in respect was ever sought from the Assessee. Hence, the observation of the Worthy CIT(Ex.) that the trust is still engaged in the construction of building even after a decade of incorporation stands factually explained, also, it is not a valid reason at all to reject the exemption application of the Assessee Trust.*
- 9. Reliance is further placed on the judgment of the Apex Court in case of Gangadeen Niranjani Lai Data Charitable Trust as reported in 463 ITR 695(SC)(2024) dated 22.01.2024 wherein SLP filed by the Department against the Order of Rajasthan High Court as reported in 463 ITR 690 has been dismissed by the Apex Court, the Hon'ble Rajasthan High Court wherein it has been held that the Tribunal was justified in granting approval u/s 80(5) to the assessee-charitable trust. The Tribunal had found that the Commissioner did not raise any objection with regard to the genuineness of the assessee's activities, that his objection was only with the volume of activities carried out by the assessee on the ground that in eight months no significant charitable activities had been carried out by it. On the facts the Tribunal had held that as per rule 11AA(5), the Commissioner could reject the application for approval under Section 80G, after recording the reasons for such rejection in writing, if he was satisfied that one or more conditions laid down in clauses (i) to (v) of sub-section (5) of Section 80G were not fulfilled, that since the Commissioner had not recorded any reason that the*

assessee had failed to fulfill the statutory conditions, his order rejecting the application for approval could not be affirmed and that therefore, the Commissioner was directed to grant approval under Section 80G(5). The order of the Tribunal need not be interfered with.

10. *Jaipur Tribunal in the case of Keeday Makaunday Foundation v Commissioner of Income- tax, (Exemption) [2023] 148 taxmann.com 481 (Jaipur - Trib.)*

“Section 12AB of the Income-tax Act; 1961 read with section 8 of Companies Act, 2013 - Charitable or religious trust - Procedure for fresh registration (Illustrations)

- Assessment year 2022-23 - Assessee, a company with charitable objects, was registered under section 8 of Companies Act, 2013 - It applied for registration under section 12AB - Commissioner rejected application on basis that only part details were submitted by assessee and it did not perform activities of charitable in nature but business activities were visible - Whether since assessee had replied all issues raised by Commissioner and he did not controvert them and activities undertaken by assessee were interconnected With objects mentioned in memorandum of association which were not of profit motive, Commissioner was not justified in denying registration - Held, yes [Para 3.4] [In favour of assessee]”

The case of the Assessee is squarely covered by the judgements cited above. When the activities of the assessee trust are charitable in nature and is carrying out such activities with the intent of continuing it, then, the rejection of the application of registration is uncalled for and bad in law.”

3. On a query from the Bench as to whether the matter can be restored to the file of the Ld. CIT(E) for considering afresh the application for registration u/s 12A of the Act in view of the

evidences and submissions made before us, the Ld. DR as well as Ld. Counsel expressed no serious objection.

4. On hearing both the parties and on going through the submissions and the evidences furnished before us and also the order passed by the Ld. CIT(E), we feel it appropriate to restore this appeal to the file of the Ld. CIT(E) to decide afresh the application for registration u/s 12A of the Act of the assessee after providing adequate opportunity of being heard to the assessee. Hence, this appeal is restored to the file of the Ld. CIT(E) for deciding afresh in accordance with law.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 26.09.2025

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 26.09.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI