

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER
ITA No.107/JAB/2025
A.Y.-NA

ATHITHEYAM NYAS, C/o Kalyan Sewa Ashram, AMRAKNATK DT-ANUPPUR, M.P. 484886	vs.	Commissioner of Income-tax (Exemption), Bhopal
PAN:AAKTA1783A		
(Appellant)		(Respondent)

Assessee by:	Sh. P.C. Bardia & Sh. Rahul Bardia, C.As.
Revenue by:	Sh. Shravan Kumar Meena, CIT DR
Date of hearing:	18.09.2025
Date of pronouncement:	30.09.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the orders of the Id. CIT (Exemption), Bhopal wherein the Id. CIT (Exemption) has rejected the application filed by the assessee in Form No. 10AB for registration under section 12B of the Income Tax Act. The grounds of appeal are as under:-

"1. That without considering the reply e filed/mailed dated 20.03.2024, the CIT(Exemp) erred in cancelling the provisional registration granted on 28.11.2023 AND rejecting 10AB Form for permanent registration VIDE ORDER DATED 21.03.2025 due to non-submission of reply to notice dated 13.03.2025 up to 18.03.2025 alleging: -

- 1. failure to explain the reason for delay in filling Form 10AB without considering fresh/corrected 10AB Form filed on 18.03.2025 u/s 12A(ac)(1)(vi)(B) under new law.*
- 2. Not justifying dissolution clause No. 23 allowing use of funds by the Settlers/trustees- without referring clause No. 19,20, 21 and 22 of the trust deed.*
- 3. The trust is irrevocable- not correct-without referring irrevocable clause No. 19 of the trust deed.*

4. *The trust running hotel on commercial basis and not a Dharmashala for charitable purpose-without referring trust Registration order etc.*

2. *That the CIT (Exemp) erred in rejecting the application filed by the assessee in Form 10AB for permanent registration under section 12A(1)(ac)(iii) on 23.09.2024 instead of extended period up to 30/06/2024 thus belatedly, being procedural mistake and the trust meets substantive conditions and compliances of registration u/s 12AB.*

3. *That the Id. CIT (Exemp) erred in not considering the fresh Form 10AB filed on 18.03.2025 and the detailed reply filed on 20.03.2025 to the final notice dated 13.03.2025 to which reply was to be filed up to 18.03.2025 there was no sufficient time (14th Holi, 15th Saturday, 16th Sunday) given for reply, thus the rejection order passed is in valid for want of proper opportunity*

4. *That the CIT(Exemp) erred in not considering the fact that the assessee trust already commenced activity on 15.05.2023 and provisional registration (Form No. 10A filed on 21.11.2023) was granted on 28.11.2023 and valid up to A.Y. 2026-27, the time limit to file Form No 10AB (Filed on 23.09.2024) within 6 months of the commencement of activity (extended up to 30.06.2024) is not mandatory being procedural mistake supported by genuine hardship in electronic filling. hence the alleged delay of 84 days ought to have been condoned as provided u/s 12(A)(vi) proviso Relied on Grow Foundation case- ITA No. 734/Ahd/2024 order dated 10.09.2024 ITA No. 113/PUN/2024-Birmani Charitable trust-order dated 28.03.2024, ITAT Delhi- ITA No. 1553/Del/2024 order dated 5.06.2024.*

5. *The appellant craves leave to add/alter/ amend any of the ground(s) of appeal before or at the time of hearing appeal”*

3. The facts of the case are that the assessee applied in Form 10AB for registration under section 12AB. The Id. CIT (Exemption) records that he issued opportunity letters to the assessee for submission of various documents/details to enable him to process the said application and to verify the objects and activities of the assessee Nyas. He records the fact, that two opportunity letters were issued to the assessee on 3.01.2025 and 13.03.2025, but both remained uncompiled with, in substance. He submitted that while some reply was received in response to the notice dated 3.01.2025, when additional documents were sought, no response was received in reply to the notice dated 13.03.2025. The Id. CIT (Exemption) observed that the matter was getting barred by limitation on 31.03.2025, and therefore, the information was required in a time bound manner. However, the assessee did not furnish any reply. He noted that the assessee had failed to explain the reason for delay in

filing Form 10AB, he had not justified the dissolution clause that allows distribution of assets and properties generated out of public money by the Trust among its Settlers / President / heirs and the trust deed not being irrevocable. The Id. CIT (Exemption) further observed, that the assessee was engaged in running a hotel on commercial basis. It was not a Dharamshala for charitable purposes and as per the Audit Report, the assessee had generated revenue of Rs. 36,23,937/- from staying charges during F.Y. 2023-24. He had asked for a rate list, but the assessee had omitted to provide the same. In view of these aforesaid details mentioned above, the genuineness of the charitable activities claimed by the assessee for the general public could not be ascertained and therefore, the Id. CIT (Exemption) declined to grant the registration under section 12AB of the Act. He also cancelled the provisional registration granted earlier.

4. Aggrieved by this order, the assessee has come in appeal before us. Sh. P.C. Bardia and Sh. Rahul Bardia, C.As. representing the assessee pointed out, that without giving proper opportunities and also without considering the reply that had been e-filed / emailed on 20.03.2024, the Id. CIT (Exemption) had erred in cancelling the registration of the assessee Nyas and refusing the registration under section 12AB. It was submitted that the assessee had filed a fresh Form 10AB on 18.03.2025 and a detailed reply on 20.03.2025 to the final notice dated 13.03.2025. It was submitted that the said notice had only given time upto 18.03.2025 which was insufficient as the festival of Holi fell in between and therefore, the rejection order was invalid for want of proper opportunity. Furthermore, the Id. CIT (Exemption) had erred in not considering the fact that the assessee trust had commenced activity on 15.05.2023 and provisional registration had been granted on 28.11.2023, that was valid upto A.Y. 2026-27. Thus, the time limit to file Form No. 10AB (which was filed on 23.09.2024) within six months of commencement of activity (which was

extended upto 30.06.2024) was not mandatory, being a procedural mistake supported by genuine hardship in electronic filing. Hence, the alleged delay of 84 days ought to have been condoned as provided under the proviso to section 12(A)(vi). The assessee placed reliance on the orders of the ITAT in Grow Foundation case in ITA No. 734/AHD/2024 and Birmani Charitable Trust in ITA No. 113/PAN/2024.

5. On the other hand, Sh. Shravan Kumar Meena, CIT DR (hereinafter referred to as the Id. DR) submitted that the assessee had not made proper compliance before the Id. CIT (Exemption) and the Id. CIT (Exemption) had observed several discrepancies in the objects of the assessee Nyas and therefore, appeared to be justified in rejecting the application of the assessee. However, he acknowledged the fact that the assessee had only been provided with two opportunities and limited time and therefore, did not have any objection to the matter being restored to the file of the Id. CIT (Exemption) for a decision on the merits of the case.

6. We have duly considered the facts and circumstances of the case. We notice from a perusal of the paper book submitted by the assessee, that the assessee had submitted a mail to the Id. CIT (Exemption), Bhopal on 20.03.2025 at 1.02 pm IST pointing out, that its reply could not be filed on 18.03.2025 due to the Holi holiday / Rangpanchmi and the reply window had been closed. Therefore, it was sending its reply by email which may please be considered. However, it seems that this reply of the assessee was not considered while passing the final order. Therefore, in the interest of natural justice, we deem it appropriate to restore this matter back to the file of the Id. CIT (Exemption), so that the Id. CIT (Exemption) may consider the reply filed by the assessee on email dated 20.03.2025 and also such other evidences which the assessee may like to produce in order to satisfy the Id. CIT (Exemption) with regard to its

activities and thereafter the ld. CIT (Exemption) may pass an order in accordance with law.

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

Order pronounced on 30.09.2025 in the open Court.

Sd/-

**[KUL BHARAT]
VICE PRESIDENT**

DATED: 30/09/2025

Sh

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR, ITAT,
4. CIT,
5. The CIT(A)

Sd/-

**[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER**

By order
Sr. P.S.