

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “B” BENCH: NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.1303/Del/2020

[Assessment Year : NIL]

Gyan Devi Memorial Cultural & Educational Society, F-26, Bali Nagar, Delhi-110015 PAN-AAATE8521G	vs	CIT(Exemption), New delhi-110002.
APPELLANT		RESPONDENT
Appellant by	Shri Nishant Gupta, CA	
Respondent by	Ms.Monika Singh, CIT DR	
Date of Hearing	17.07.2025	
Date of Pronouncement	15.10.2025	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the assessee against the order dated 30.01.2020 passed by Ld. Commissioner of Income Tax (Exemption), New Delhi [“Ld. CIT(E)”] u/s 12AA(1)(b) r.w.s. 12A and order u/s 80G(5)(vi) of the Income Tax Act, 1961 [“the Act”] rejecting the registration application for grant of registration u/s 12A of the Act.

2. Brief facts of the case are that assessee is a society engaged in the running of school in the name of “Adarsh Public School” at Dayal Sar Road, Uttam Nagar, Delhi. The assessee has filed applications online on 17.07.2019 in Form 10A & 10G for seeking registration u/s 12AA and exemption u/s 80G of the Act.

3. Ld.CIT(E) by observing that the assessee has paid rent to its President in last year though, no rent was paid prior to that and further observed that fire safety certificate was issued for only Ground +1 floor whereas school is running in Ground + 3 floor therefore, the genuineness of the trust is not established and thus the application for registration u/s 12A was rejected.

4. Against the said order, the assessee preferred appeal before Tribunal by taking various grounds of appeal in Form No. 36.

5. During the course of hearing, Ld.AR was directed to file precise grounds of appeal therefore, the assessee has filed revised grounds of appeal which read as under:-

Ground No.1

“That the Ld. CIT (Exemption) failed to appreciate that the Appellant Trust is primarily engaged in providing Primary education to the poor and needy children of the society as defined in the 'Charitable Activities' section 2(15) of the Act. Hence, the Ld. CIT(E) erred in facts and on law in treating the activities of the trust as non-genuine because

- (i) the rent was paid by the Appellant since last one year however the school was running for the last 4-5 years and that the rent was being paid to the president of the society and the society has not been able to justify the same w.r.t. prevailing rent and that*
- (ii) the previous Fire Safety Certificate was valid up to 04.05.2019 and the same was not renewed as on date of filing of application and that Fire safety certificate was available only for Ground + 1 floor, and the school was being operated from the ground + 3 floors, which is neither the requirement of the Act, nor changes the charitable nature of the Appellant Trust. Therefore, on the facts and circumstances of the case, the order passed by the learned CIT (Exemption) rejecting the application for registration furnished by the assessee under section 12A(a) of the Act, is bad both in the eye of law and on facts: -*

Ground No.2

The appellant craves leave to add, amend, alter, delete, rescind, forego or withdraw any or all the grounds of appeal at any time before or during the course of hearing.”

6. Ground of appeal Nos. 1 (i) and 1(ii) raised by the assessee, are with respect to the rejection of the registration u/s 12A of the Act therefore, they are taken together for consideration.

7. Before us, ld.AR submits that the assessee is a charitable society established on 22.01.2003 and registered under the Society Registration Act, 1860. The assessee is dedicated to provide quality primary education to the needy and poor children of society at nominal fees. It is further submitted that the assessee is running primary school in the name of the “Adarsh Public School” upto class 5 which is duly approved by Department of Education, Municipal Corporation of Delhi and affiliated to CBSE. The assessee filed an application seeking registration u/s 12A before Ld. CIT(E) and during the course of hearing, all the details as asked for were filed. Ld. AR submits that Ld. CIT(E) has not doubted the activities carried out by the assessee nor raised any doubts about the charitable activities carried out by the assessee. Merely for the reason that in the last year, rent was paid to the President of the society and some deficiency in fire safety certificate, registration u/s 12A was denied.

8. Ld.AR further submits that Ld. CIT(E) nowhere in its order, has observed that rent paid to the president was excessive or unreasonable. There is no provision under the Act which provides that compliance of statutory norms like fire safety would be a

pre-condition for granting registration u/s 12A of the Act. Therefore, it is prayed that the registration u/s 12A be granted as the appellant society is engaged in the charitable activities of providing education to the needy and poor children. Ld.AR also placed reliance on the judgement of Hon'ble Supreme Court in the case of **Ananda Social & Educational Trust vs CIT & Another [2020] 17 SCC 254 (SC)**.

9. On the other hand, Ld.CIT DR for the Revenue vehemently supported the orders of the lower authorities and submits that the assessee has failed to comply with statutory obligations therefore, Ld.CIT(E) has rightly denied the registration u/s 12A of the Act to the assessee society which order deserves to be uphold. He prayed accordingly.

10. Heard the contentions of both parties and perused the material available on record. In the instant case, the registration u/s 12A was rejected for the reasons that the rent was paid to the President of the society and violation of fire safety norms. Form the perusal of the order, we find that nowhere in the order, the Ld. CIT(E) doubted the charitable activities carried out by the assessee which are in the shape of running of primary school where education was provided to the needy and poor students. This fact has not been denied. The appellant society was registered in terms of society registration Act, 1860 and its one of the primary object is to provide good and quality education to children of all communities irrespective of their race, religion, caste or creed in general and to prepare them to become mature and responsible citizens of the country through all round physical, intellectual, academic, moral

and spiritual development based on value derived from thereto. To achieve this object, the assessee society is running an educational institution where primary education was provided to the students.

11. Ld. CIT(E) has not made out a case that the rent paid to the President of the society was excessive or unreasonable and was not in accordance with the prevailing market rate of that area. Further, violation of fire safety norms could not be the criteria for denial of registration u/s 12A of the Act.

12. Hon'ble Punjab & Haryana High Court in the case of ***CIT (Exemption) vs. Ambala Public Educational Society; [2018] 100 taxmann.com 131 (P&H)*** order dated **29.10.2018** has held as under:-

8. *“The application under Section 12A of the Act cannot be rejected merely on the ground that the Secretary of the Society was getting lease rent for the land given to the Society for running the School or his wife who had requisite qualification was teaching in the school and was being paid the salary. It is not the case set up by the Revenue that the exorbitant amounts had been paid by the assessee-Society to the Secretary or to his wife. No dispute has been raised to the fact that the assessee-Society is running a school as per its aims & objects. The CIT while rejecting the application has not doubted the genuineness of aims and objectives of the assessee-Society. On the other hand the Assessing Officer while finalising the assessment for assessment year 2010-11 under Section 143(3) of the Act has specifically recorded the finding that the income earned by the Society has been utilized for educational purposes.”*

13. In aforesaid case the application u/s 12A of the Act was rejected for the ground that the Secretary of the society was getting lease rent for running school who had requisite qualification was present in this school and was being paid the salary. It was not the

case of the Revenue that exorbitant payments were made to the Secretary, or his wife. No doubts were raised to the fact that the assessee society was running as per its objects. Ld. CIT(E) has not doubted the objects of the assessee society. On the other hand, AO while finalizing the assessment for AY 2010-11 u/s 143(3) of the Act has specifically recorded the findings that the income earned by the society has been utilized for educational purposes. Moreover, this judgement of the Hon'ble Punjab & Haryana High Court was challenged by the Revenue before Hon'ble Supreme Court wherein SLP was dismissed in terms of the order reported in [2020] 113 taxmann.com 404 (SC).

14. In the present case also, as observed above, that Ld. CIT(E) has not alleged that the assessee society is not doing any charitable activities as per its objects or failed to achieve its object as provided in the Memorandum and has accepted the fact that the assessee society is running a primary education school.

15. Looking to these facts, in our considered view, Ld.CIT(E) has erred in rejecting the application for registration u/s 12A of the Act. Accordingly, we set aside the order of Ld.CIT(E) and allowed the registration u/s 12A to the assessee society. Accordingly, Ground of appeal Nos. 1(i) and (ii) raised by the assessee are allowed.

16. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 15.10.2025.

Sd/-

**(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:- 15.10.2025

Amit Kumar, Sr.P.S

Copy forwarded to:

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2. Respondent
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ASSISTANT REGISTRAR
ITAT, NEW DELHI