

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE MS. PADMAVATHY S, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 2617/MUM/2025**

**Mohanji Bharat Welfare
Foundation**

142A-Wing, 14 Flat, Building No. Vs.
Kalpataru, Est, Bldg, 5 & 6, Coop
Hsg. Soc Ltd, JVLR, Andheri E,
Mumbai-400 093

**PAN: AAPCM1543G
(Appellant)**

CIT(Exemptions)

R. No. 601, 6th floor, Cumbulla
Hill, MTNL Building,
Cumballa Hill, Dr.Gopalrao
Deshmukh Marg, Mumbai,
Maharashtra – 400 026

(Respondent)

Assessee Represented by

**: Shri K. Shivaram & Ms.
Neelam Jadhav, Ld. AR**

Department Represented by

**: Shri Lyaqat Ali Aafaqui,
Ld. DR**

Date of conclusion of Hearing

: 16.07.2025

Date of Pronouncement

: 14.10.2025

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 20.02.2025 of Learned Commissioner of Income Tax (Exemption),



Mumbai [hereinafter referred to as the “CIT(E)”], wherein the application for regular approval by submitting Form 10AB was rejected and provisional approval earlier grant was also rejected on the ground that the application for granting regular registration was filed after expiry of provisional approval and was barred by limitation.

2. The brief facts of the case are that, as per memorandum of association, the assessee has constituted a private company registered under Indian Companies Act to pursue and advance the goals of humankind for the benefit of the public in accordance with the guidance and enlightenment of Mohanji for fulfilling the four objectives i) Dharma, ii) Artha, iii) Karma and iv) Moksha. The details of the activities are mentioned in memorandum of association placed at page 67 to 77 of the paper book-1. As per Form 10AC placed at page 78 to 80 of the paper book-1, the provisional registration was granted on 18.01.2022 from AY 2022-23 to AY 2024-25. As per the affidavit filed on behalf of the deponent Madhusudan Rajagopalan dated 1st April 2025, the provisional registration granted vide Form 10AC was to lapse on 31st March 2024 and the application was required for final registration to be filed latest by 30.06.2024. The application for regular registration vide Form 10AB



was filed on 03.08.2024 before the Ld. CIT(E). The condonation of delay before the Ld. CIT(A) beyond 30.06.2024 was sought on the ground that the assessee being a small organization has not employed /engaged a full time chartered accountant (C) and did not have any previous experience on tax matters. The CA appointed made attempts to file the application before the due date, but on account of technical error, it could not be filed and the said application could be filed on 03.08.2024 by the said CA Mr. JyotishShelat. It is stated that the assessee was prevented by sufficient cause in not filing the application within time and the delay of 33 days in filing the same was sought to be condoned.

3. Further, Ld. CIT(E) vide impugned order dated 20.02.2025 has dismissed the application on the ground of delay as well as on the ground that the objectives of the assessee as per clause 3(B)(2), 3(B)(13), 3(B)(26), 3(B)(27) and 3(B)(31) are in violation of section 11(1)(c) of the Act as found mentioned in para 3 of the impugned order. It was further observed by Ld. CIT(E) that the assessee has not amended the memorandum of association to delete the portion in the above mentioned paras regarding carrying out activities outside India despite opportunities and has also failed to show sufficient cause for



condonation of delay as the assessee has not submitted any evidence with respect to technical error faced in filing Form 10AB.

4. Aggrieved by the order of Ld. CIT(E), Assessee preferred the present appeal before us and has raised the following grounds of appeal:-

“That on the facts and circumstances of the case and in law, the Commissioner of Income-tax (Exemptions) (CIT(E)) has erred in passing an order dated February 20, 2025, cancelling the provisional registration under section 80G of the Income-tax Act, 1961 (Act) and rejecting the application filed by the Appellant without providing a reasonable opportunity of being heard.

2. That on the facts and circumstances of the case and in law, the CIT(E) has erred in passing an order dated February 20, 2025, cancelling the provisional registration under section 80G of the Act although there was no delay in making an application for registration

3. Without prejudice to the above, on the facts and circumstances of the case and in law, the CIT(E) has erred in passing an order dated February 20, 2025, cancelling the provisional registration under section 80G of the Act without appreciating that the delay in filing for registration was on account of technical glitches on the Income-tax portal and beyond the control of the appellant hence the delay of 33 days in filing the application may be condoned.

4. Without prejudice to the above, that on the facts and circumstances of the case and in law, the CIT(E) has erred in passing an order dated February 20, 2025, cancelling the provisional registration under section



80G of the Act although there was no violation of section 11(1)(c) of the Act.

5. Without prejudice to the above, that on the facts and circumstances of the case and in law, the CIT(E) has erred in passing an order dated February 20, 2025, cancelling the provisional registration under section 80G of the Act as the Appellant has not applied any income for activities outside India, merely having an object clause in the memorandum can't be the ground for not granting the registration under section 80G of the Act.

6. Without prejudice to above, that on the facts and circumstances of the case and in law, the CIT(E) has erred in passing an order dated February 20, 2025, cancelling the provisional registration under section 80G of the Act although there was no violation of section 80G (i) to (v) of the Act.

7. The Appellant craves leave to add, amend, alter or delete any or all the above grounds of appeal.”

5. To summarize the grounds of appeal, the assessee has sought for setting aside the impugned rejection order on the ground that there was no delay in making an application for registration and the Ld. CIT(E) has committed error in cancelling the provisional registration u/s 80G of the Act without appreciating the delay on account of technical glitches in the income tax portal which was beyond the control of the assessee and further Ld. CIT(A) has erred in passing the order, cancelling the



provisional registration despite that assessee has not carried out any object /activities outside India and merely having an object clause in the memorandum cannot be the ground for rejecting the registration u/s 80G of the Act.

6. We have heard Ld AR and Ld. DR and also considered the written arguments filed by both the parties. The assessee has filed 2 paper books before us. Paper Book-1 is the factual paper books and Paper Book -2 is the legal paper book.Ld. AR submitted that the provisional registration which was valid up to AY 2024-25 was required to be regularised as the application was filed on 03.08.2024 i.e. before the end of AY 2024-25. Secondly, if there was any delay in filing the application, there is sufficient explanation given by the assessee which makes out a cause for condonation of delay because the assessee could not appoint a regular CA and the CA appointed by it, could not file the same due to technical glitches in the income tax portal.
7. In support of his argument, Ld. AR relied on the decision of Coordinate Bench of ITAT Mumbai in case of **Saaksh Foundation vs. CIT(E) [2024] 162 taxmann.com 474 (Mum. Trib.)** and submitted that similar order passed by Ld. CIT(E), rejecting the application for



regularisation of provisional registration on account of application has not been filed within 6 months before the expiry of provisional registration. In the said case, the Coordinate Bench has set aside the order of Ld. CIT(E) and the delay was condoned u/s 80G(5)(iii) of the Act and restored the matter to the file of Ld. CIT(E) for de novo consideration. Ld. AR has further relied on the decision of Coordinate Bench of ITAT Pune in the case of **Kailash Math Trust v. CIT(E) ITA No. 1177/PUN/2023** dated 5th January, 2024 wherein it was held that when the activities were already commenced before granting of provisional registration, the requirement of regularisation of temporary registration was to file application before 6 months of expiry of provisional registration and not within 6 months of commencement of the activities. Therefore, the Tribunal held that applying the harmonious interpretation to the fact that the time limit for applying for regular registration for an existing trust is six months before the expiry of provisional registration. Ld. AR further relied on the decision of Hon'ble Chhattisgarh High Court in the case of **Vaishya Welfare Gaushala and Naturopathy Shiksha Society v. UOI [2024] 167 taxmann.com 582 (Chh)(HC)** wherein it was held that if due to technical glitches assessee could not succeed in submitting Form 10AB



for registration of society as charitable trust, the Commissioner was to be directed to accept Form 10AB in physical mode treating same as filed prior to last date of submission and delay period was condoned. Ld. AR further relied on the decision of the Hon'ble Jurisdictional High Court in the case of **Sitaldas K. Motwani vs DGIT [2010] 323 ITR 223 (Bom) (HC)** wherein it was held that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred, for another side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

8. Ld. AR further submitted that there was no violation of section 11(1)(c) of the Act as alleged by Ld. CIT(E) because the the inclusion of the phrase "application of funds outside India" in the Memorandum of Association which according to the assessee was an error and the same is explained by way of an affidavit of Mr. Madhusudan Rajagopala, director of the assessee. The process of rectification of Memorandum of Association was also initiated and the same has been filed at Pages 283 to 294 of Paper Book – 1. The Board resolution to resolve this issue by rectification of memorandum of association dated 4th April 2025 is



placed at page no. 295 of Paper Book-1. It is therefore submitted that there was no violation of section 11(1)(c) of the Act. Ld. AR relied on the decision of Coordinate Bench of ITAT Bangalore in the case of **Dr. T.M.A. Pai Foundation v. CIT (E) [2025] 175 taxmann.com 719 (Bangalore Trib.)** wherein it was held that provisions of sections 11 and 12, along with section 13 of the Act including application of fund by charitable organization are to be examined during course of assessment proceedings and not at time of granting approval under section 80G of the Act. It is therefore prayed that the impugned order be set aside and the appeal be allowed.

9. On the other hand, Ld. DR opposed the arguments of Ld. AR and submitted that the explanation given for condonation of delay was not making out a sufficient cause. The Ld. DR further submitted that the amendment in clauses removing the activities outside India has been done subsequent to the rejection of the application, hence the same cannot be considered by the Tribunal. In his written arguments, Ld. DR has opposed the arguments of Ld. AR and submitted as under:-

“i). In the instant case, the order passed by the Ld. Commissioner of Income Tax (Exemptions), Mumbai dated 20.02.2025 rejecting the application for registration under Section 80G of the Income-tax Act, 1961, is in strict



adherence to statutory provisions and is fully justified in law and on facts. The assessee, M/s Mohanji Bharat Welfare Foundation, had filed its application for regular registration in Form 10AB only on 03.08.2024, while the provisional registration granted earlier under Section 80G had already lapsed in March 2024. Despite the CBDT Circular No. 7/2024 dated 25.04.2024 granting a further extension for filing such applications till 30.06.2024, the assessee failed to comply within the extended timeline. The explanation offered by the assessee, that technical glitches on the portal prevented timely filing, is not supported by any documentary evidence or communication to the Department, and hence cannot be considered a reasonable cause. Mere self-serving assertions without corroboration are insufficient to condone the delay under law.

ii). Further, on examination of the Trust Deed and Memorandum of Association (MoA), the CIT(E) has rightly noted that various object clauses-particularly clauses 3(B)(2), 3(B)(13), 3(B)(26), 3(B)(27), and 3(B)(31)-clearly reflect the intent and authorization of the assessee to carry out activities and expend funds outside India. Such clauses are in direct violation of Section 11(1)(c) of the Act, which restricts application of income outside India unless specifically approved by the CBDT. The assessee's reply that it has not, and does not intend to, apply funds abroad is not sufficient when such enabling clauses continue to exist in the governing document.

iii). The assessee neither amended the said clauses nor submitted any evidence of initiation of steps for such amendment. Therefore, the possibility of future expenditure outside India in contravention of the Act cannot be ruled out, and the apprehension of the CIT(E) is not only reasonable but also legally tenable. The action of the CIT(E) in cancelling the registration under Section 80G is further supported by the decision of the Hon'ble ITAT Mumbai in the case of Sila for Change Foundation v. CIT (Exemptions) [ITA Nos. 4274 & 4275/Mum/2024], where it was held that mere existence of object clauses



permitting activities outside India insufficient ground to deny or cancel registration under Section 12AB and consequently under Section 80G, even if no such activity has yet been undertaken. The Tribunal emphasized that such enabling clauses are in violation of Section 11(1)(c) and the assessee must amend or remove them to be eligible for approval. In the present case as well, the assessee failed to modify the object clauses despite multiple opportunities, thereby justifying the cancellation.

iv). Moreover, as per Rule 11AA(2) of the Income Tax Rules, the application for approval under Section 80G must be accompanied by certain mandatory documents. The assessee, despite being provided multiple opportunities through notices dated 09.01.2025, 30.01.2025, and 10.02.2025, failed to furnish a complete set of requisite documents, including proof of activities, expenditure, bank statements, and resolutions for amendment. The partial and delayed responses submitted by the assessee do not discharge the burden of proving compliance with the essential conditions of Section 80G(5), particularly clauses (i) to (v), which require a comprehensive review of the genuineness of activities and statutory compliance.

v). In view of the above facts and statutory violations, the CIT(E) has rightly concluded that the assessee trust failed to meet the eligibility criteria for grant of registration under Section 80G of the Act. The order of rejection is a reasoned and legally sustainable order passed after providing due opportunity to the assessee, and no interference is called for. Accordingly, the impugned order deserves to be upheld in toto.”

10. We have considered the rival submissions of both the parties and examined the record. The question to be determined before us on the basis of factual matrix and the discussion made above are:



- I) whether there was delay in filing Form 10AB for seeking regularisation of provisional registration u/s 12AB of the Act under clause (iii) of sub section 5 of section 80G of the Act and;
- II) if there was delay in filing Form 10AB, whether the same can be condoned by this Tribunal or same can also be condoned by Ld. CIT(E) under the proviso of section 12A(1)(ac)(iii) of the Act.
11. As per Form 10AC issued u/s 80G of the Act placed at page no. 6 & 7 of the paper book I, the provisional approval was granted on 09.02.2022 and as per column no. 8 of Form 10AC, the assessee was provisionally approved from 09.02.2022 to AY 2024-25 u/s 80G of the Act. The Form 10AB was filed on 03.08.2024. As per the impugned order, the Form 10AB could have been filed on or before 30.06.2024 as per CBDT circular dated 28.07.2024. The assessee has failed to show any evidence of technical glitches in filing the application and the reasons given for condonation of delay for filing Form 10AB on 03.08.2024 beyond the period granted by CBDT, does not make a sufficient cause for condonation of delay.



12. Ld. AR argued that firstly there was no delay in filing Form 10AB because the provisional registration was approved till expiry of AY 2024-25 meaning thereby provisional registration was to expire on 31.03.2025. However in case Form 10AB was to be filed till 30.06.2024 and provisional registration as per affidavit of Madhusudan Rajagopalan, director of assessee company placed at page no. 335 to 337 of the paper book 2, has expired on 31st March 2024, but the application period was extended till 30.06.2024, therefore there was sufficient cause for filing affidavit before the Ld. CIT(E) for condonation of delay. In support of his argument, Ld. AR relied on the decision of Coordinate Bench of ITAT Surat in case of **Swachh Vapi Mission Trust vs. CIT(e) (2024) 160 taxmann.com 657 (Surat Trib.)** wherein it was held that the Tribunal can condone the delay in filing Form 10AB. In that case also, the provisional approval in Form 10AC issued on 06.04.2022 for the period commencing from 06.04.2022 to AY 2025-26 and vide circular no. 8/2022 dated 31.03.2022, the extended time for filing Form 10AB was 30.09.2022, however the assessee filed the Form 10AB u/s 80G(5) of the Act on 24.02.2023 i.e. 147 days delay and the Ld. CIT(E) rejected the application and cancelled the provisional approval the Ld. Coordinate Bench condoned the delay while relying on



the judgment of Hon'ble Supreme Court in the case of **K.P. Varghese vs. ITO (1981) 131 ITR 597 (SC)** as referred in the decision of **ITAT Jodhpur Bench in ITA No. 278/Jodh/2023** order dated **10.11.2023** wherein it was held that the words 'within six months of commencement of its activities' is to be interpreted that it applied for those trusts/ institutions which have not started charitable activities at the time of obtaining provisional registration and not for those trust/institutions which have already started charitable activities before obtaining provisional registration.

11. If we agree with the interpretation of the ld.CIT(E), then say a trust which was formed in the year 2000, performed charitable activities since 2000, but did not applied for registration u/s.80G, the said trust will never be able to apply for registration now. This in our opinion is not the intention of the legislation. This interpretation leads to absurd situation.

11.1 In this context, we will like to refer to observations of the Hon'ble Supreme Court in the case of K P Varghase(supra), where in Hon'ble SC observed as under :

Quote, "It is a well-recognised rule of construction that a statutory provision must be so construed, if possible, that absurdity and mischief may be avoided. There are many situations where the construction suggested on behalf of the revenue would lead to a wholly unreasonable result which could never have been intended by the Legislature. Take, for example, a case where A agrees to sell his property to B for a certain



price and before the sale is completed pursuant to the agreement and it is quite well known that sometimes the completion of the sale may take place even a couple of years after the date of the agreement - the market price shoots up with the result that the market price prevailing on the date of the sale exceeds the agreed price at which the property is sold by more than 15 per cent of such agreed price. This is not at all an uncommon case in an economy of rising prices and in fact we would find in a large number of cases where the sale is completed more than a year or two after the date of the agreement that the market price prevailing on the date of the sale is very much more than the price at which the property is sold under the agreement. Can it be contended with any degree of fairness and justice that in such cases, where there is clearly no understatement of consideration in respect of the transfer and the transaction is perfectly honest and bona fide and, in fact, in fulfillment of a contractual obligation, the assessee who has sold the property should be liable to pay tax on capital gains which have not accrued or arisen to him. It would indeed be most harsh and inequitable to tax the assessee on income which has neither arisen to him nor is received by him, merely because he has carried out the contractual obligation undertaken by him. It is difficult to conceive of any rational reason why the Legislature should have thought it fit to impose liability to tax on an assessee who is bound by law to carry out his contractual obligation to sell the property at the agreed price and honestly carries out such contractual obligation. It would indeed be strange if obedience to the law should attract the levy of tax on income which has neither arisen to the assessee nor has been received by him. If we may take another illustration, let us consider a case where A sells his property to B with a stipulation that after sometime, which may be a couple of years or more, he shall resell the property to A for the same price. Could it be contended in such a case that when B transfers the property to A for the same price at which he originally purchased it, he should be liable to pay tax on the basis as if he



has received the market value of the property as on the date of resale, if, in the mean-while, the market price has shot up and exceeds the agreed price by more than 15 per cent. Many other similar situations can be contemplated where it would be absurd and unreasonable to apply section 52(2) according to its strict literal construction. We must, therefore, eschew literalness in the interpretation of section 52(2) and try to arrive at an interpretation which avoids this absurdity and mischief and makes the provision rational and sensible, unless of course, our hands are tied and we cannot find any escape from the tyranny of the literal interpretation. It is now a well-settled rule of construction that where the plain literal interpretation of a statutory provision produces a manifestly absurd and unjust result which could never have been intended by the Legislature, the Court may modify the language used by the Legislature or even 'do some violence' to it, so as to achieve the obvious intention of the Legislature and produce a rational construction -
” Unquote.

11.2 Thus, as observed by Hon'ble Supreme Court, that the statutory provision shall be interpreted in such a way to avoid absurdity. In this case to avoid the absurdity as discussed by us in earlier paragraph, we are of the opinion that the words, “within six months of commencement of its activities” has to be interpreted that it applies for those trusts/institutions which have not started charitable activities at the time of obtaining Provisional registration, and not for those trust/institutions which have already started charitable activities before obtaining Provisional Registration. We derive the strength from the Speech of Hon'ble Finance Minister and the Memorandum of Finance Bill 2020.

11.3 Therefore, in these facts and circumstances of the case, we hold that the Assessee Trust had applied for registration within the time allowed under the Act. Hence, the application of the assessee is valid and maintainable.



12. Even otherwise, the Provisional Approval is upto A.Y. 2025-26, and it can be cancelled by the ld.CIT(E) only on the specific violations by the assessee. However, in this case the ld.CIT(E) has not mentioned about any violation by the Assessee. Therefore, even on this ground the rejection is not sustainable.

13. However, the ld.CIT(E) has not discussed whether the Assessee fulfils all other conditions mentioned in the section as he rejected it on technical ground. Therefore, in these facts and circumstances we hold that the Assessee had made the application in form 10AB within the prescribed time limit and hence it is valid application. Therefore, we direct the ld.CIT(E) to treat the application as filed within statutory time and verify assessee's eligibility as per the Act. The ld.CIT(E) shall grant opportunity to the assessee. Assessee shall be at liberty to file all the necessary documents before the ld.CIT(E).

14. Accordingly, the appeal of the assessee is allowed for statistical purpose. Since we have set aside to Ld.CIT(E), we do not intend to adjudicate each ground separately.”

18. We note that the Co-ordinate Bench of ITAT Jodhpur in the case of Bhamashah Sundarlal Daga Charitable Trust (supra) dealt with only the issue/terminology of “whichever is earlier” which is applicable to new trust which have created recently, and it does not deal with condonation of delay in case of old trust who made the application before ld CIT(E) very late, that is, the issue mention in clause (iii) of 3rd proviso of section 80(5), “where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval..” has not been adjudicated.

13. Further with regard to whether the Tribunal can condone the delay in filing the Form 10AB u/s 80G of the Act, the Ld. Coordinate Bench of ITAT Surat in Swach Vapi Mission Trust (supra) has held that the the



Tribunal is a final fact finding authority, and based on the assessee`s facts and undue hardship created by the clause (iii) of 3rd proviso of section 80(5) of the Act, the Tribunal may condone the delay in filing the Form No.10AB, u/s 80G(5) of the Act. Therefore, the Tribunal may condone the delay in filing the Form No.10AB, u/s 80G(5) in the interest of justice. In that regard the Coordinate Bench of Surat relied the judgment of Hon`ble Delhi High Court in the case of **DCIT(Exemption) vs. Vishwa Jagriti Mission [2013] 30 taxmann.com 41 (Delhi)/[2013] 213 Taxman 65 (Delhi)**, wherein it was held in para 18 that the question *‘whether there was sufficient cause for the delay is also a question of fact.’* The Hon`ble Delhi High Court relied on the decision of Hon`ble Supreme Court in the case of **UdhavdasKewalram v. CIT [1967] 66 ITR 462 (SC)** wherein the Hon`ble Supreme Court held that the Income-tax Appellate Tribunal performs a judicial function under the Indian Income-tax Act and it is vested with authority to determine finally all questions of fact. It is further held that the Legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on the merits. The expression "sufficient cause"



employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. The acceptance of the explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. It was further held that the court cannot set aside the Tribunal's finding of fact if there is some evidence to support that finding even though the court itself might have come to a different conclusion upon the evidence.

14. It is to be noticed that the condonation of delay is sought by the assessee before the Ld. CIT(E) alleging those facts, which in the facts and circumstances, makes out a sufficient cause for condonation of delay. Since the Tribunal is the last fact finding authority, hence this question whether the assessee is entitled for condonation of delay in filing the Form 10AB, u/s 80G(5) of the Act and its determination is within the domain and power of the Tribunal because the Tribunal may pass such orders thereon as it thinks fit(**reference section 254(1) of the Act**). The reliance placed by Ld. DR on the case of **Sila for Change Foundation vs. CIT(E), ITA No. 4274 & 4275/Mum/2024 order**



dated 20.12.2024 is not applicable to the facts of the case in hand because in the said case, it was held that mere existence of objet clauses permitting activities outside India is sufficient ground to deny or cancel registration u/s 12AB and consequently u/s 80G of the Act, even if no such activity has yet been undertaken. The facts of the said case are also different from the facts of the present case because in the said casethe assessee has failed to modify the object clause despite multiple opportunities given, thereby justifying the cancellation, but in the case in hand, the assessee has already taken required steps to modify the object clause by removal of provision of spending money outside India and we have no reason to disbelieve the affidavit filed in that regard which is placed at page no. 335 to 430 of the Paper Book 2.

15. The copy of the proposed amendment to the MOA of the Appellant, along with a copy of the acknowledgement for Form GNL-1 filed by the Appellant with the Ministry of Corporate Affairs (MCA) has been placed at page no. 283 to 294 of the paper book 1 and copy of Resolution passed by the Board of Directors of the Appellant clarifying that the clause in the MoA granting power to apply funds outside India is a



drafting error and is proposed to be rectified is placed at page no. 295 of the paper book 1.

16. Therefore, in view of the above facts, we are of the considered opinion that the case relied by Ld. DR is of no help and does agitate against the claim of the assessee for regularisation of provisional registration of the assessee u/s 12AB of the Act.
17. As has already been discussed since the provisional registration granted vide Form 10AC was valid from 09.02.2022 to AY 2024-25 and since the trust is old entity carrying out its charitable activities much before granting of provisional approval, therefore assessee is entitled to get regular registration u/s 12AB of the Act, by moving an application 6 months before the expiry of provisional approval i.e. 6 months prior to 31st March 2025 and the said date would be 30th September 2024. The application was filed on 3rd August 2024, therefore it is well within the time limit. However in the affidavit filed by the Director of the assessee company, it is categorically admitted that the provisional registration as per Form 10AC u/s 12AB of the Act was lapsed on 31st March 2024, though it seems to be misinterpretation of the provisional registration granted as per Form 10AC of the Act. However, it is to be considered



that the provisional registration is lapsed on 31.03.2024 and the CBDT extended the registration till 30th June 2024; as discussed by us, the reasons for condonation of delay as elaborated in the affidavit of the director of the assessee company constitute sufficient cause for seeking condonation of delay. In these facts and circumstances, the Ld. CIT(E) ought to have considered the request for condonation of delay. Moreover the Parliament has amended section 12A(1)(ac)(iii) of the Act by adding proviso by Finance (No.2) Act, 2024 w.e.f. 01.10.2024 which provides as under:-

“Where the application is filed beyond the time allowed in sub clauses (i) to (vi), the Principle Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within the time.”

18. Thus, the above provision has given power to the Principle Commissioner or Commissioner to condone the delay in addition to section 119 of the Act which empowers the CBDT to issue orders and instructions to subordinate income tax authorities regarding condonation of delay to the tax payers who have missed statutory deadlines due to genuine hardship. Since the assessee has already taken necessary steps for carrying out amendments in the objectives of the



assessee to bring the parameters of section 11 and 12 of the Act by removing the provision of spending charitable amount outside India or carrying out activity outside India, therefore a holistic approach was required to be adopted by Ld. CIT(E) by considering those amendments in the objective clause which will be effective after approval of the registrar of the companies because the assessee is a private limited company incorporated under the Companies Act. The objection of the Ld. DR regarding amendment of the said objective clause after the rejection of the application, does not hold water because it is a settled law that carrying out the activity outside India and spending of the money for charitable purpose outside India can be considered only at the time of grant of exemption to the said amount and the same is not required to be considered at the time of granting regularisation of registration u/s 12AB by filing Form 10AB.

19. In the given facts and circumstances, we are of the considered opinion that the assessee has made out sufficient cause for condonation of delay in filing the application beyond the period of limitation which was elapsed on 31.03.2024 as mentioned in the affidavit and is to be considered as such notwithstanding that the provisional registration



was valid till AY 2024-25. Under these circumstances, we find it a fit case to condone the delay and the delay in filing the application u/s 12A in Form 10AB seeking regularisation of registration u/s 80G(5)(iii) of the Act, is accordingly condoned. Accordingly, we restore the matter to the file of Ld. CIT(E) to consider the request of the assessee for regular registration on merit and to verify the fact of the amendments made out in the objective clauses, if the same has been incorporated in the Memorandum of Association with the approval of the competent authority or not. Once the Ld. CIT(E) is satisfied in that regard, the Ld. CIT(A) is directed to consider for granting regular registration to the assessee and decide the matter afresh. The question no. 1 enumerated by us is decided in affirmative due to admission in affidavit of the director of the assessee regarding admission of lapse of provisional approval on 31.03.2024. The question no. 2 is also decided in affirmative holding that the Tribunal u/s 254(1) of the Act as well as Ld. CIT(E) u/s 12A(1)(ac)(iii) (proviso) has power to condone the delay. Accordingly, the grounds raised by the assessee are allowed in above terms.

20. In the result, the appeal filed by the assessee is **allowed for statistical purposes in above terms.**



Order pronounced in the open court on 14.10.2025.

Sd/-
(PADMAVATHY S)
(ACCOUNTANT MEMBER)
Mumbai / Dated 14.10.2025
Dhananjay, Sr.PS

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.
//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai