

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

ITA Nos.1500 & 1501/Kol/2025

**Amigos Prasasth Path Social Welfare Society.....Appellant
1 Ram Krishna Bagchi Lane,
Beadon Street, Battala, Kol- 700006..
[PAN: AAJTA7599P]**

vs.

CIT (Exemption), Kolkata.....Respondent

Appearances by:

Shri Giridhar Dhelia, Advocate, appeared on behalf of the appellant.
Shri Raja Sengupta, CIT- DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 08, 2025

Date of pronouncing the order : October 27, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

Both the present appeals have been preferred by the assessee against separate orders both dated 28.06.2025 of the Commissioner of Income Tax (Exemption), Kolkata [hereinafter referred to as 'CIT(E)'] rejecting the separate applications filed in Form 10AB for final approval as per the provisions of sections 12A(1)(ac)(iii) & 80G(5)(iii) of the Income Tax Act (hereinafter referred to as the 'Act') respectively. Since both the appeals relate to the same assessee and arise from the final registration u/s 12A of the Act which is compulsory for getting subsequent registration u/s 80G of the Act which are interconnected in both the appeals and therefore, these appeals were heard together and we are going to dispose of these appeals by passing a consolidated order. ITA No.1500/Kol/2025 is taken as lead case for narration of facts.

2. ITA No.1500/Kol/2025 - Brief fact of the case are that the assessee filed an application for registration u/s 12A(1)(ac)(iii) of the Act in Form 10 AB. A notice was issued to the assessee and in response to the notice, the assessee submitted various details along with supporting documents. The Id. CIT(E) rejected the application of the assessee on the basis of the aims and objects of the society are apparently in the nature of commercial and business and he rejected the reply of the assessee that the activity was to serve charitable purposes.

3. Aggrieved by the said order, the assessee preferred appeal before us. The Id. AR challenges the very impugned order thereby submitting that the Id. CIT(E) grossly erred in rejecting the application ignoring the trust deed in which the aims and objects had been mentioned. The Id. AR submits that the assessee is a charitable trust, non-profitable, non-commercial and non-political trust for public charitable objects. The Id. AR by filing some photographs have tried to convince this court that photographs clearly establish the activities of the trust which is completely charitable in nature. The prayer of the Id. AR is that the matter be remitted back to the file of the Id. CIT(E) for fresh consideration with this direction that the assessee is a charitable trust and his aims and objects has clearly been defined in trust deed and that it is for general public welfare and other charitable purpose including relief of the poor, education, medical relief and advancement of any object of public utility. He has cited decisions passed by the Tribunal which are as follows:

1. Baba Balaknath Seva Sansthan [2024] 167 taxman.com 716 (Jaipur-Trib.)
2. Pragati Education and Charitable Trust [2025] 175 taxman.com 896 (Ahmedabad-Trib.)

3. Institute of Indian Foundrymen vs. ITO [2024] 161 taxman.com 20 (Kol-Trib.)

4. Creative Museum Designers vs. ITO [2022] 145 taxman.com 27 (Gujarat)

4. Contrary to that, the ld. DR supports the impugned order.

5. Upon hearing the counsels of the respective parties and on perusal of the impugned order, it appears to us that the assessee had filed an application u/s 12A for registration in Form 10AB. The ld. CIT(E) has rejected the application by holding that the trust deed clause no.4.2 to 4.25 are apparently in the nature of commerce and business. We have gone through the trust deed filed by the assessee and find that in clause no.4 and 4.1 of the trust deed, the aims and objections of the trust have been mentioned, which is as under:

“4. AIMS AND OBJECTS OF THE TRUST:-

That the aims & objectives of the trust shall be of general public welfare and other charitable purpose including relief of the poor, education, medical relief and advancement of any object of public utility not involving the carrying on of any activity for profits as defined under the income-tax act, 1961 and/or under any order for the time being in force under the income-tax act, 1961 and / or under any order for the time being in force under the income-tax act and/or any stationary modifications thereof. Besides such objectives in general the trust will mainly work with the sphere of drug and other chemical substance abuse and without prejudice to the generality of the aforesaid and the following shall be deemed to be the principal objectives of the Trust.

That the objects only for Charitable Purposes on defined in Charitable Trust Act 1920&Income Tax Act 1961, for which this trust is established are:-

4.1 To establish, develop, maintain, run and to do all kinds of Education Programs, Health Programs, Agricultural Programs, Environmental Programs, Cultural Programs, Social Welfare Programs and also take Part in all types of State Government & Central Government Projects and /or Programs. To implement the Schemes / programmes of various institutions departments engaged for development of handicraft sector like KVIC, SIDBI, Ministry of Textile, NABARD, Department of Rural Development, Consumer Forum, Legal Services Authority, Central/State Educational Board/Council etc.”

5.1 We find that the Id. CIT(E) has picked up only 4.2, 4.24 & 4.25 from the aims and objection of the trust deed and rejected the application solely based on these clauses ignoring the dominant and primary objective such as advancing of education, medical relief to the poor. It is settled position of law at the stage of granting of registration u/s 12A that the competent authority is required to verify whether the objects are charitable in nature or whether the trust is genuinely carrying out charitable activities. The genuineness of the activities and application of income may be examined at the time of assessment and not at the stage of registration. We have gone through the judicial pronouncements and find that in the case of Pragati Education and Charitable Trust vs. CIT (supra) wherein the Tribunal has dealt this issue and held thus:

“7. It is a settled position of law that registration under section 12AB cannot be denied merely on apprehension that the trust may engage in non-charitable or commercial activities in future. The proper stage for examining the application of income or potential violation of section 13 is during assessment, and not while considering the application for registration. This legal principle stands fortified by the judgment of the Hon’ble Karnataka High Court in CIT (Exemptions) v. Embassy Charitable Trust (supra), where the Court held that the scope of enquiry at the stage of registration under section 12AA (now 12AB) is confined to examining the charitable nature of the objects and the capacity of the trust to pursue them. The Court categorically held that the Commissioner is not empowered to adjudicate the genuineness of activities or invoke section 13 unless the trust has actually commenced operations and misapplied its income.

8. The same legal position was reiterated by the Co-ordinate Bench in the case of Jito Bhavnagar Chapter Foundation v. CIT(E) (supra), wherein the Tribunal held that a trust having dominant charitable objects cannot be denied registration merely because a few ancillary clauses may incidentally benefit members or enable participation in government schemes. It was further held that the invocation of section 13(1)(c) or 13(1)(b) is premature at the registration stage and cannot be used as a ground to reject registration in the absence of any corresponding financial activity or misuse of funds.

9. In the present case, the CIT(E) has neither established any nexus between the financial statements and the objected clauses, nor demonstrated any actual deviation from the charitable purpose. The

rejection of registration is therefore based on a speculative and partial reading of the trust deed, contrary to the principle that the objects must be read holistically and in context.

10. As regards the rejection of the application under section 80G(5), we note that the CIT(E) has rejected the same solely on the ground that registration under section 12AB was not granted. Since we are setting aside the order denying registration, the rejection of the 80G approval is also rendered unsustainable and requires reconsideration.

11. In light of the above discussion and the authoritative legal position emerging from judicial precedents, we are of the considered opinion that both the impugned orders passed by the CIT(E) under section 12AB and section 80G of the Act suffer from material legal infirmities and cannot be sustained. We accordingly set aside both orders and restore the matters to the file of the CIT(Exemption), Ahmedabad, for fresh adjudication. While doing so, the CIT(E) shall examine the assessee's applications de novo, taking into consideration the trust deed, financial records, and all supporting submissions in a comprehensive and holistic manner. The CIT(E) shall refrain from invoking the provisions of section 13 or drawing adverse conclusions based on hypothetical or unsubstantiated apprehensions. The assessee shall also be afforded a reasonable and effective opportunity of being heard before passing fresh orders in accordance with law."

5.2 We also find that it has clearly been defined in the trust deed that establishment of this trust is non-profitable, non-commercial, non-political trust for public charitable objections but to serve general public welfare and other charitable purpose including relief of the poor, education, medical relief and advancement of any object of public utility. It is further pertinent to mention here that the assessee has also clarified regarding the clauses no.4.2, 4.24 & 4.25 of the trust deed by submitting that inclusion of such clauses was intended to enabling provision for future charitable work targeting to uplift socio-economic and disadvantaged poor people and backward community particularly women and youth and it will be conducted directly in view of charitable perspective and not for commercial purpose. The main object of the trust is to empower and uplift marginalized underprivileged backward community particularly in rural and backward areas without running in profit.

6. Going over the judicial pronouncements and facts of the case, we do not find any hesitation to hold that the objects of the assessee is for charitable purposes not for commercial and business purpose. Accordingly, we allow the appeal of the assessee by remitting the file of the assessee to the Id. CIT(E) for fresh considering keeping in view the judicial pronouncements and discussion made above and grant the registration u/s 12A of the Act as per law. Accordingly, ITA No.1500/Kol/2025 is allowed for statistical purposes.

7. ITA No.1501/Kol/2025 - Since we have already remitted ITA No.1500/Kol/2025 after allowing registration u/s 12A of the Act to the file of the Id. CIT(E) and the same will be applied in granting registration u/s 80G(5) of the Act in ITA No.1501/Kol/2025. Hence, ITA No.1501/Kol/2025 is allowed for statistical purposes after allowing registration u/s 80G(5) of the Act.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

Kolkata, the 27th October, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 27.10.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches