

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, KOLKATA

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

I.T.A. No. 1177/Kol/2025

Hijaldiha Vivekananda Seva Samity,

Hijaldiha, Hijaldiha 722138,

West Bengal - 722138

[PAN: AAAAH1978F]

..... **Appellant**

vs.

The Commissioner of Income Tax

(Exemptions)- Kolkata,

10B, Middleton Row (6th Floor),

Kolkata - 700071

..... **Respondent**

Appearances by:

Assessee represented by : P.K. Ray, AR

Department represented by : P.N. Barnwal, CIT-DR

Date of concluding the hearing : 04.09.2025

Date of pronouncing the order : 13.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. These are second round proceedings, whereby in the first round, the rejection order issued by the Ld. Commissioner of Income Tax (Exemptions), Kolkata [hereafter the “Ld. CIT(E)”, dated 09.11.2022 was set aside and restored to his file by the ITAT for passing another order after giving an opportunity of being heard to the assessee. In this case, Form 10AB u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961 (hereafter “the Act”) had been filed by the assessee, which had been rejected in the first round.

1.1 In the second round, the Ld. CIT(E) has passed an order with the following finding:

“On perusal of the details filed by assessee as well as the material on record it is seen that assessee has already granted approval u/s. 12A(1)(ac)(i) for 5 years 2022-23 to 2026-27 vide URN No. AAAAH1978FE20214 dated 28.05.2021 Assessee is an old trust and registered u/s. 12A before 01.04.2021. Being an old registered trust assessee has filed application for registration u/s.

12A(1)(ac)(i) and accordingly it was granted regular registration for 5 years.

In this context assessee can rely upon the decision in the case of M. A. No. 16/KOL/2024 for I.T.A. No. 912/KOL/2023 [Commissioner of Income Tax (Exemption) Vs. City Level Programme of Action for Street and Working Children], the Hon'ble Members given the verdict under para 7 that original registration granted to the assessee, which is valid upto AY 2026-27, was a regular registration being an old Trust enjoying registration under section 12A before inception of new regime. Therefore, we are satisfied that our order has been suffering with an apparent error. This application of the assessee in Form 10AB to Ld. CIT(Exemption) for grant of provisional registration is basically an incorrect procedure and Ld. CIT(Exemption) has rightly dismissed it. There should not be any appeal of the assessee before the Tribunal in the light of the valid original registration available to the assessee upto A.Y. 2026-27.

As the assessee has already been granted registration u/s, 12A for 5 years from A.Y 2022-23 to 2026-27 as regular registration, the application filed by assessee is treated as 'cancelled/dropped. However, no adverse inference is drawn against the assessee. With this order the direction of the Ld. ITAT stand disposed."

1.2 The assessee is aggrieved with this action and has filed the present appeal with the following grounds:

"1) That the impugned Order of the Ld. Commissioner of Income Tax (Exemptions), Kolkata, erred in law by cancelling/dropping the application in Form No. 10AB, e-filed by the Appellant on 17.06.2023, for approval under section 12A(1)(ac)(ii) of the Income Tax Act, 1961. This cancellation was erroneously made on the premise of the Appellant already holding registration under section 12A(1)(ac)(i) (via application Form No. 10A) of the Income Tax Act, 1961 Such an action is contrary to the legislative intent and the transitional provisions mandated by the Finance Act, 2020, which specifically required existing registered entities to apply for re-approval under section 12A(1)(ac)(iii) of the Income Tax Act, 1961.

2) That the impugned Order of the Ld. Commissioner of Income Tax (Exemptions), Kolkata regarding registration under Section 12AB of the Income Tax Act, 1961 was flawed. This flaw is demonstrably proven by returns of income tax for the Assessment years 2022-23 and 2023-24 being selected for CASS scrutiny and received notices under Sections 143(2) and 143(1) of the Income Tax Act, 1961. Therefore, the rejection order issued in Form 10AD under Section 124(1)(ac)(i) is illegal and should be granted registration under Section 12AB of the Income Tax Act 1961

3) That the Rejection of Registration u/s 12AB

The Ld. Commissioner of Income Tax (Exemptions), Kolkata demonstrated only the case relied upon the decision in the case of M. A. No. 16/KOL/2024 for ITA. No. 912/KOL/2023 [Commissioner of Income Tax (Exemption) Vs. City Level Programme of Action for Street and Working Children) whereas the cases of MA No 13/Kol/2025 In ITA No. 918/KOL/2023 CIT(Exemption), Kolkata vs. L. Dey Road Sarada Society Purulial, MA No. 12/Kol/2025 in In ITA No. 966/KOL/2023 [CIT(Exemption), Kolkata vs Bam Vivekananda Primary Teachers Training College) and MA No. 15/Kol/2025 in ITA No 495/KOL/2024 [CIT(Exemption), Kolkata vs. Sister Nivedita Old Age Home] has totally reversed the Misc.

Application of the revenue is dismissed and in favour of the Appellant and registration for approval under section 12A(1)(ac)(iii) of the Income Tax Act, 1961 stands valid as previous order of the Hon'ble Bench.

Therefore, your Appellant prays before the Hon'ble Members of the Appellate Tribunal for direction to grant the permanent Registration u/s 12AB of the Income Tax Act, 1961 against decision made by the Ld. of Commissioner of Income Tax (Exemptions), Kolkata

The Appellant craves the leave of the Hon'ble Members of Income Tax Appellate Tribunal to urge further ground(s) at the time of hearing and to produce the documents in support of its argument, if required."

2. Before us, the Ld. AR prayed that permanent registration u/s 12AB of the Act was legally due to the assessee and therefore, the Ld. CIT(E) should be directed to grant the same accordingly. In order to verify whether such registration has been actually granted or not, the Ld. DR was requested to obtain a copy of the registration form. The same was produced for our perusal and it is evident that against column No. 7, it is written as under:

"Date of provisional registration dated 28.05.2021"

The Ld. DR also placed before us CBDT Circular No. 11/2022, dated 03.06.2022 in which certain clarifications have been issued as under:

"(ii) Where due to technical glitches, Form No. 10AC has been issued during FY 2021-22 with the heading "Order for provisional registration" or "Order for provisional approval" instead of "Order for registration" or "Order for approval", then all such Form No. 10AC shall be considered as an "Order for registration on approval" and, in such cases where Form No. 10AC, has been issued,-

- (a) Under section code 01 (applications seeking re-registration),*
 - (i) In the heading and in rows 6,7,9 and 10 the words, "provisional registration" shall be read as "registration"*
 - (ii) in row 8 the word "provisionally registered" shall be read as "registered",*
- (b) under section codes 03, 04, 05, 06 or 11 (applications seeking re-approval),"*
 - (i) In the heading and in rows 6, 7, 9 and 10 the words, "provisional approval" shall be read as "approval",*
 - (ii) in row 8 the word "provisionally approved" shall be read as "approved".*

3. We have heard the Ld. AR/DR and have gone through the documents placed before us for our perusal. It is seen that the assessee has a valid

certificate till AY 2026-27, which is actually a final registration and not simply a provisional one. The clarification issued by CBDT (supra) is clear on this point. Accordingly, it deserves to be held that the assessee has a valid registration till AY 2026-27 and thus, there is no reason why we should interfere with the order passed by Ld. CIT(E).

4. In result, appeal of the assessee is dismissed.

Order pronounced on 13.10.2025

Sd/-
(George Mathan)
Judicial Member

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 13.10.2025
AK, Sr. P.S.

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches