

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'A': NEW DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTNAT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.5290/Del/2024  
[Assessment Year: -----]**

Ram Saran Das Kishori Lal Charitable Trust, A-27, Friends Colony East, New Delhi-110001	Vs	Commissioner of Income Tax (Exemption), Room No.24.05, E-2 Block, 24 <sup>th</sup> Floor, Civic Centre, New Delhi-110002
<b>PAN-AAATR0783P</b>		
Appellant		Respondent

Appellant by	Shri Ajay Vohra, Sr. Adv. & Shri Aditya Vohra, Adv. Shri Arpit Goyal, Adv.
Respondent by	Shri Amit Jain, CIT-DR

<b>Date of Hearing</b>	<b>09.09.2025</b>
<b>Date of Pronouncement</b>	<b>12.11.2025</b>

**ORDER**

**PER ANUBHAV SHARMA, JM,**

This appeal has been preferred by the assessee against order dated 26.09.2024 of The learned Commissioner of Income Tax (Exemption), Delhi u/s 12AA(3)/12AB(4) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard and perused the records. The brief facts to the present appeal are that the Appellant is a Charitable Trust created through Trust Deed dated 11.09.1967 and admittedly the Trust was set up for advancement of charitable

objects of public nature and more particularly for advancement of education and for affording medical relief by opening and or helping hospital, dispensaries, providing furniture and necessary medical equipment and medicines required for efficient running of hospital and treatment of patients. Another object of the Trust was opening and/ or helping educational institutions. The Trust established a hospital named 'Ram Saran Dass Kishori Lal Charitable Trust Hospital' ("Kakar Hospital") on 13.12.1971 for achieving its objectives. Government of Punjab recognized the Hospital as being of State Importance vide letter dated 23.07.1980. The said Hospital was sold during FY 2015-16 as disclosed in audited financial statement.

3. The Appellant was initially registered under section 12A of the Income-tax Act, 1961 on 08.10.1975 and as per new regime a fresh registration under section 12A(I)(ac)(i) was granted on 29.03.2022 for AYs 2022-23 to 2026-27.

4. Earlier, registration of the Appellant Trust under section 12A was cancelled by the Commissioner of Income-tax, Amritsar ("CIT, Amritsar") by an order dated 31.12.2008 passed under section 12AA(3) of the Act, wherein it was held that the Appellant was involved in illegal kidney transplant and thus, the activities carried out by the Appellant ceased to be for charitable purposes and were actually for profit motive, that too, through illegal means. The said order passed by the CIT, Amritsar was challenged by the Appellant before the Amritsar bench of the Tribunal, which upheld the order cancelling registration. The same was further challenged before the Hon'ble Punjab &

Haryana High Court and by order dated 23.01.2023, the Hon'ble High Court held that the order of cancellation dated 31.12.2008 passed by the CIT, Amritsar was without jurisdiction inasmuch as CIT, Amritsar did not have the power to cancel the registration of a trust under section 12A of the Act and such power was given to the CIT only subsequently, i.e., vide Finance Act, 2010, w.e.f. 01.06.2010. Subsequently, the registration of the Appellant under section 12A of the Act was reinstated by CIT(E), Chandigarh vide order dated 22.09.2023, subject to the condition that an "order, if any, passed under section 12AA(3) of the Income Tax Act by competent authority on or after 01-06-2010 shall prevail".

5. Then we find that on request from ITO(E) the jurisdiction from ITO(E), Ward Amritsar was transferred to CIT(E), New Delhi, by the CIT(E) order dated 05.08.2024, exercising powers under section 127(2) of the Act w.e.f. 02.08.2024.

6. The immediate background to present appeal is the fact that CIT(E), Chandigarh issued show cause notice dated 14.03.2024 to the Appellant under section 12AA(3)/12AB(4), stating that it was found that the Trust has violated the provisions of section 2(15) r.w.s 12AA as the Trust was engaged in profit making activities and activities of the Trust are not genuine and not as per the objects of the Trust. The Appellant was required to show cause as to why registration under section 12A(a) granted on 08.10.1975 alongwith registration granted by CPC on 29.03.2022 under section 12A(I)(ac)(i) of the

Act shall not be cancelled. The copy of notice is made available at Pg. 548-549 of the PB. The same was duly replied to by the Appellant on 02.04.2024 and the copy of same is available at PB pg 550-574. Subsequent to transfer of the jurisdiction of the Appellant to DCIT(E), Delhi, final show cause notice dated 12.08.2024 was issued by the CIT(E), New Delhi, wherein the competent authority rejected the contentions of the Appellant raised vide reply dated 02.04.2024 and granted final opportunity to the Appellant. The same was duly replied to by the Appellant vide letter dated 24.08.2024. The copy of same is at PB Pg. 577-590. The aforesaid proceedings culminated in impugned order dated 26.09.2024 passed by CIT(E), New Delhi, wherein exercising powers under section 12AA(3)/ 12AB(4) of the Act, the CIT(E) cancelled the registration granted to the Appellant with retrospective effect from 01.04.2002.

7. The findings of the CIT(E) in the impugned order are that appellant is engaged in business activity for the purpose of Explanation (a) (b) to section 12AB(4) of the Act, by letting out hospital premises. It is alleged that the leasing out of premises by the Appellant to the doctors at Rs.3 lakhs per month shows that the Trust is running solely for profit and not for achieving the objects of the Trust and the Appellant has not used the lease rental for running/ operating hospitals and that the Appellant has made earning rental income its primary objective. Reference was made to Board Resolution dated 04.09.2004, wherein the Board of Trustees resolved that due to loss in running

of the hospital for last one year or more, it is unanimously decided that the hospital may either be closed or sold on outright basis or leased out to anyone who may be interested in running the hospital, to allege that motive of the Trust is not to do charity but to make profit.

7.1 It was further alleged that the Hospital premises was used for illegal kidney transplant and thus hit by Explanation (e)/ (f) to section 12A B(4) of the Act as appellant is engaged in illegal activity. It was observed that the permission to operate kidney transplant surgery was withdrawn by the appropriate authority from 20.01.2003. The Trust was involved in illegal kidney transplant and FIRs were filed against the doctors of the hospital and the manager of the Trust, i.c., Mr. Hardial Mehta. It was alleged that it is not possible that manager could engage in such activities without the approval and consent of the Trust/Trustees.

7.2 Then it was alleged that the registration dated 29.03.2022 was obtained fraudulently under section 12A(1)(ac)(i) of the Act and thus is vitiated by Explanation (g) to section 12AB(4) of the Act. While the appeal of the Appellant was pending before the Hon'ble Punjab & Haryana High Court challenging the order dated 26.06.2009 passed by the Tribunal sustaining the revocation of registration of the Appellant under section 12A(a), the Appellant applied for renewal of registration under sub-clause i) of section 12A(I)(ac) vide application dated 22.03.2022. It is only subsequent thereto, the Hon'ble Punjab & Haryana High Court vide order dated 23.01.2023 quashed the order

passed by CIT(E) and restored the registration of the Appellant under section 12A(a) of the Act. Since on the date of application under sub-clause (i) of section 12A(1)(ac), the Appellant did not hold any valid registration under section 12A(a), the Appellant erred in applying for registration under the said sub-clause (i). Thus, registration under section 12A(1)(ac)(i) of the Act was obtained by the Appellant fraudulently. It was also contended that Appellant fraudulently filed ITR claiming exemption under section 11 (a) While the appeal of the Appellant was pending before the Punjab & Haryana High Court challenging the order dated 26.06.2009 passed by the Tribunal sustaining the revocation of registration under section 12A(a), the Appellant filed ITR-7 and claimed exemption under section 11 from AYs 2009-10 onwards. Since the Appellant was not holding any valid registration from 31.12.2008 till 23.01.2023, the Appellant fraudulently claimed exemption under section 11 of the Act in the ITR-7 filed for the said period.

7.3 Thus the CIT(E), New Delhi held that the Appellant has made 'Specified Violations' in terms of section 12AB(4). The CIT(E), New Delhi, accordingly, cancelled the registration granted to the Appellant with retrospective effect from 01.04.2002 by invoking powers under section 12AA(3)/ 12AB(4) of the Act. Against the impugned order, the Appellant filed writ petition before the Hon'ble Delhi High Court bearing WP(C) 15744/2024. The same was withdrawn vide order dated 13.11.2024, with the following liberty granted to the appellant:

*"1. The learned senior counsel appearing for the petitioner, under instructions, seeks to withdraw the present petition with liberty to raise all contentions including transfer of jurisdiction, and the jurisdiction of the concerned officer to cancel the registration with retrospective effect.*

*2. Dismissed as withdrawn with the aforesaid liberty. Pending applications also stand disposed of."*

8. The grounds of appeal raised by assessee are as follows:-

*"1. The Ld. CIT(E), Delhi erred in law by assuming jurisdiction over cancellation proceedings under Section 12AA(3)/ 12AB(4) initiated by the Ld. CIT(E), Chandigarh on the basis of an order under Section 127 passed by the Ld. CIT(E), Chandigarh.*

*2. The Ld, CIT(E), Delhi erred in fact and law by failing to notice that there was no transfer of proceedings under Section 12AA(3) / 12AB(4) passed by the CBDT and neither did the order under Section 127 record any consent for transfer as required in law.*

*3. The Ld. CIT(E), Delhi erred in fact and law in failing to notice that no notice or opportunity was given to the Appellant before the alleged transfer of jurisdiction under Section 12AA/ 12AB was transferred from CIT(E), Chandigarh to CIT(E), Delhi in violation of principles of natural justice.*

*4. The Ld. CIT(E), Delhi erred in law by referring to and placing reliance on Section 12AA(3) as Section 12AA(5) excludes the applicability of Section 12AA after 01.04.2021.*

*5. The Ld. CIT(E), Delhi erred in law in cancelling the registration granted to the Appellant prior to 1996 in view of the fact that Section 12AA(3) was no longer applicable and Section 12AB(4) does not empower the CIT(E) to cancel pre-1996 registrations.*

*6. The Ld. CIT(E), Delhi erred in law by relying on Section 12AB(4) to cancel the Appellant's registration retrospectively as Section 12AB(4) does not grant the CIT(E) the power to cancel registrations prior to 2022 when it was introduced.*

*7. The Ld. CIT(E), Delhi erred in law by failing to appreciate that a bare perusal of Section 12AB(4) would show that it is ex facie prospective and not retrospective. The Ld. CIT(E), Delhi erred in ignoring settled law which states that unless a statute expressly states to the contrary, it cannot be construed as having retrospective effect.*

8. *The Ld. CIT(E), Delhi erred in law by finding that Section 12AB(4) is procedural in nature despite the fact that it drastically alters the rights and obligations of assessees and changes the entire landscape in which Charitable Trusts / Institutions function and has serious and onerous civil consequences.*

9. *The Ld. CIT(E) erred in law by commencing proceedings under Section 12AB(4) without disclosing any 'specified violation' committed subsequent to grant of registration dated 29.03.2022, or any reference by Assessing officer or a selection by risk management strategy, as mandated in the scheme of Section 12AB(4) and instead had initiated action suo moto without any such provision in the statute.*

10. *The Ld. CIT(E), Delhi erred in law by relying on alleged Specified Violations which allegedly occurred prior to the grant of registration to the Appellant under Section 12A(1)(ac)(i). Only Specified Violations which are noticed subsequent to the grant of registration under Section 12A(1)(ac)(i) can be taken as grounds for cancellation of registration. In the instant case, all alleged Specified Violations were noticed by and were in the knowledge of the Revenue prior to grant of registration on 29.03.2022.*

11. *The Ld. CIT(E), Delhi failed to appreciate that the Assessment Year in which the alleged violation is found to have occurred must be the law that is applied unless otherwise stated or implied.*

12. *The Ld. CIT(E), Delhi erred in law erred in finding a violation of ground 'g' of the Specified Violations under Section 12AB(4) to the extent that it alleged that the Appellant obtained registration dated 29.03.2022 by giving false or incorrect information in its application since the said ground was only introduced w.e.f. 01.04.2023. The Ld. CIT(E), Delhi further erred in failing to notice that the Appellant made full and candid disclosures of its status in its application for registration under Section 12A(1)(ac)(i).*

13. *The Ld. CIT(E), Delhi erred in law and fact in concluding that filing ITR-7 with full disclosure during pendency of litigation against wrongful cancellation of registration of 2008 in order to protect its rights to claim exemption under Section 11 after a favourable decision of the Hon'ble Punjab and Haryana High Court and further after assessments under Section 143(3) and paying all assessed taxes for each year was a specified violation.*

14. *The Ld. CIT(E), Delhi has failed to appreciate that that procedural defaults if at all in filing wrong ITR cannot be grounds for cancellation of registration of the Appellant.*

15. *The Ld. CIT(E), Delhi erred in law and fact in passing the Impugned Order on the basis of allegations which had been previously*

*litigated and decided in favour of the Appellant by the Hon'ble Punjab and Haryana High Court in Appellant's Appeal being ITA No. 709/2009 in the year 2023.*

16. *The Ld. CIT(E), Delhi erred in law and fact by failing to appreciate that the Appellant is not engaged in any business activity with a profit motive as is evident from the audited financial statements available with the department and as filed by the Appellant along with the reply dated 02.04.2024.*

17. *The Ld. CIT(E), Delhi erred in law and fact by failing to appreciate that mere receipt of rental income would not constitute profit making activity as long as the dominant purpose is charitable in nature and the earning is applied for the objects of the Trust.*

18. *The Ld. CIT(E), Delhi erred in law and fact by failing to appreciate the import of the Appellant's Trust Deed which gives express authorization to the Trustees of the Appellant to rent or lease out the properties of the Appellant for the purpose of earning income to be applied for the objects of the Appellant. The Ld. CIT(E), Delhi has made no finding that the Appellant has not applied the income for the objects of the Trust or wrongly applied the income so earned.*

19. *The Ld. CIT(E), Delhi failed to appreciate that the Appellant sold the property in question in 2015 and as such any alleged violation, if at all, stopped at the said time.*

20. *The Ld. CIT(E), Delhi failed to appreciate that the Appellant is a separate juridical person and cannot be held liable for criminal offences, if at all, committed by third persons such as donors, donees, doctors or an employee using Trust facilities unless any link is established in any concerted action with the Appellant resulting in charges getting framed against it. The Ld. CIT(E), Delhi has failed to establish any such link except by way of inference and surmise,*

21. *The Ld. CIT(E), Delhi's finding that the Appellant obtained registration dated 29.03.2022 by fraud is wholly fallacious as the Appellant has acted in good faith and made full disclosure of all relevant details while applying for registration.*

22. *The Ld. CIT(E), Delhi has erred in arriving that the Appellant was granted a fresh registration on 22.09.2023 by CIT(E) Chandigarh whereas the said order only revived the Appellant's registration granted to it in 1975.*

23. *The Appellant submits that each ground of appeal is without prejudice to one another and craves leave to add to, alter, amend, substitute or modify the same on or before the hearing of the present appeal."*

9. At outset it is pertinent to mention that at time of hearing ground no. 1 to 3 were not pressed. Then Ld. Sr. Counsel Shri Vohra has primarily contended that given the back ground of earlier contest between the parties about the consequences of alleged illegal activity of kidney transplant racket, the department cannot make a fresh case on same cause of action. As with regard to the ground no.4 to 8 it was contended by ld. Sr. Counsel that in view of specific mandate of section 12AA(5) of the Act, Section 12AA(3) is not applicable after 01.04.2021 and section is 12AB(4) not applicable to registrations u/s 12A, i.e., cancellation of registration by the CIT(E) vide impugned order is invalid. Relying on decision of Lakhmi Chand Charitable Society vs PCIT: ITA No. 1803/Del/2024 (Del Trib.), Islamic Academy of Education vs PCIT: [2024] 160 taxmann.com 217 (Bang Trib.), M.M. Patel Charitable Trust vs PCIT: [2025] 172 taxmann.com 316 (Pune Trib.), Meenakshi Foundation vs PCIT: [2025] 175 taxmann.com 990 (Del Trib.) and Poona Obstretics & Gynaecological Society vs PCIT: [2025] 174 taxmann.com 218 (Pun Trib.), it was contended that now it is settled that Section 12AB(4) clearly deals with the registration or provisional registration granted under clause (a), (b) or (C) of sub-section (I) or clause (b) of sub-section (1) of section 12AA, as the case may be and not section 12A of the Act.

10. Then with regard to ground no. 9 it was submitted that 'Specified violation', if any, existed prior to 01.04.2022 cannot be the basis for invoking

section 12AB(4) of the Act. Ld. Sr. Counsel contended that 'Specified violations' were inserted in sub-section (4) of section 12AB via Finance Act 2022 w.e.f. 01.04.2022, omitting the erstwhile sub-sections (4) and (5) of the said section. Before such insertion, there is no mention of any "specified violation". Thus, impugned order cancelling the registration w.e.f. 01.04.2002 on the ground that the Appellant made 'specified violations' in the past is wholly incorrect and unsustainable.

11. Then on merits it was submitted that even otherwise there is no 'specified violation' is established, as alleged to have been committed after 01.04.2022

12. Further for ground no. 10 and 11 it was contended that provisions of section 12AB(4) of the Act, which had been introduced by Finance Act, 2022 with effect from 01.04.2022 could not be invoked for cancellation of registration with retrospective effect. Reliance was placed on CBDT Circular No.11/2022, decision in Centre for Policy Research vs PCIT: WP(C) 11270/2023, interim order dated 25.08.2023 (Del), Human Welfare Foundation vs DCIT: ITA No. 2407/Del/2023 (Del Trib.), Lala Sher Singh Memorial Jeevan Vigyan Trust Society vs PCIT: ITA No.10/Del/2025 (Del Trib.), Hemkunt Foundations vs PCIT: ITA No.631/Del/2024 (Del Trib.), Heart Foundation of India vs CIT: ITA No. 1524/Mum/2023 (Mum Trib.), Amala Jyothi Vidya Kendra Trust vs PCIT: [2024] 204 ITD 605 (Bang Trib.), Maa Jagat Janani Seva Trust vs CIT(E): [2024] 208 ITD 120 (Cuttack Trib.),

Sri Srinivasa Educational and Charitable Trust vs DCIT: [2025] 173 taxmann.com 577 (Bang Trib.) Centre for Development Communication Trust vs CIT(E): [2024] 114 ITR(T)29 (Jaipur Trib.) and Dera Sacha Sauda vs PCIT: ITA No.21/Chd/2024 (Chd Trib.)

13. As with regard to ground no. 12 ld. Sr. Counsel contended that original registration under section 12A(a) of the Act was granted to the Appellant on 08.10.1975, which was revoked by the CIT(E) vide order dated 31.12.2008. The revocation of the registration was upheld by the Tribunal vide order dated 26.06.2009. The order passed by the Tribunal was challenged before the High Court, which subsequently restored the registration vide order dated 23.01.2023. In terms of clause i) of section 12A(I)(ac) of the Act, the Appellant applied for registration vide application dated 22.03.2022 and registration was granted vide certificate dated 29.03.2022, which was valid for AY 2022-23 to AY 2026-27. Since on the date of making application under sub-clause (i) of section 12A(1)(ac), the Appellant did not hold any valid registration under section 12A(a), the CIT(E) held that the Appellant erred in applying for registration under the said sub-clause and the registration was obtained by the Appellant from the CPC fraudulently. It was submitted that along with the application for registration, the Appellant enclosed note titled "Note on the present application for registration under section 12A of the Income Tax Act, 1961". The note disclosed full facts of the case, including the fact of cancellation of registration by the CIT on 31.12.2008 w.e.f. 01.04.2002

and the status of Appellant's appeal filed before the Punjab and Haryana High Court. Therefore, it is incorrect assertion on the part of the CIT(E) that the Appellant has obtained registration fraudulently; rather, the Appellant had filed the application for registration disclosing full and truly all material facts along with supporting documents. It was specifically mentioned that though the issue of registration is sub-judice before the Hon'ble High Court, the Appellant is sanguine that the same will be decided in favour in light of judgments of the Supreme Court on similar issue. Only after consideration of the same, the Principal CIT/ CIT have conferred registration on the Appellant for AY 2022-23 to AY 2026-27 vide Form No.10AC dated 29.03.2022.

14. In regard to ground no. 13 and 14 it was submitted that with respect to AY 2009-10 and onwards, while the appeal of the Appellant challenging the cancellation of registration under section 12A(a) by the CIT was pending before the Hon'ble High Court, the Appellant filed return of income in form ITR-7 claiming exemption under section 11 of the Act. The CIT(E) alleged that such incorrect filing of returns is cogent ground for cancellation of registration, which finding is unsustainable for the reasons that there was lack of full disclosures made along with the income-tax returns. It was submitted that though return was filed in ITR-7 in the status of charitable trust declaring Nil income, the Appellant duly discharged income-tax liability based on the alternative computation of income in the status of AOP, prepared suo moto, by way of advance tax, TDS and self-assessment tax. [Reliance was placed on

PB pg 353-356 for AY 2015-16]. The assessing officer was also duly informed regarding the full facts by way of letters). The Notes filed with the letters) explained the entire facts and circumstances of the case together with Audit Report and statement of amount spent on charitable purposes. It was submitted that this demonstrates the Appellant's intention to comply with tax laws, even in the absence of clarity regarding the registration status.[PB pg 351-375 for AY 2015-16]. Even in the Audit Report filed under section 12A of the Act for each assessment year subsequent to withdrawal of registration, complete facts regarding the said withdrawal and pending appeal before the Punjab and Haryana High Court have been stated, subject to which the Audit Reports have been issued.[PB pg 362-369 for AY 2015-16] The Appellant's claim of exemption under section 11 in the returns filed during pendency of the appeal before the High Court was based on the belief that the registration as charitable institution is valid and would be restored by the High Court. In that eventuality, if the Appellant had not claimed exemption under section 11 of the Act in the returns filed, it would not have been possible for it to claim such legitimate exemption subsequently.

14.1 In this context it was submitted that for AYs 2016-17 and 2017-18, the Appellant was granted refund of Rs.2,64,03,078 and Rs.38,81,619 respectively by the CPC, based on Nil return filed. The Appellant, on immediate basis, deposited back the income-tax refund for AY 2016-17 on 28.08.2019 and for AY 2017-18 on 27-8-2019. The same proves bona fide

intention of the Appellant to not profit from inadvertent error on the part of the Department.[PB Pg 538-543 for letter filed for AY 2016-17 & Letter dated 05.09.2019 filed for AY 2017-18 is enclosed herewith as Annexure 1]

15. As for ground no. 16 to 19 that Appellant is engaged in business activity / and thus hit by Explanation (a) & (b) to section 12AB(4), ld counsel submitted that Board Resolution dated 04.09.2004 was passed by the Board of Trustees of the Appellant resolving that due to loss in running of the hospital for last one year or more, it is unanimously decided that the hospital may either be closed or sold on outright basis or leased out to anyone who may be interested in running the hospital. Accordingly, the Appellant vide lease agreement dated 08.03.2005, agreed to let out its building to group of doctors on a monthly lease rental of Rs.3,00,000. Ultimately, the hospital was sold by the Appellant in August 2015. The CIT(E) held in the impugned order that leasing of building to doctors shows that the Appellant is only aiming for making profit and not to fulfil its objects as per the Trust Deed. The leasing out of Trust hospital does not amount to achievement of any object of general public utility or providing medical relief.

16. Ld. DR submitted that the impugned order suffers from no illegality and taking all the aspects into consideration including the illegal acts giving rise to registration of criminal cases and concealment of facts, the ld.CIT(E) has cancelled the registration. It was submitted that the provisions of section

12AB of the Act mentions that registration can be cancelled of any previous year, therefore, that implies that registration can be cancelled retrospectively.

17. Now the first legal aspect necessary to keep in mind is that Section 11 of the Act itself recognises that '*Income derive from property held under the trust wholly for charitable or religious purpose*', gives sufficient right and power to any Trust for being best judge of the use of its property so far as same is used for charitable or religious purposes. Thus there is no bar on the Trust to derive income from the Trust property. It is the use of that is regulated by the Act.

17.1 The Appellant in reply dated 02.04.2024 filed against show cause notice dated 14.03.2024 issued by CIT(E), has extensively dealt with the allegation regarding "Appellant engaged in business activity". [PB pg 559-562]. In case of assessee the purpose of leasing of hospital premises to doctors by the Appellant is solely for the fulfilment of objects of the Appellant, i.e., providing medical relief. Such leasing is not merely an act of earning rental income but undisputedly the income derived from the trust property has been utilised/ applied by the Appellant for the objects of the trust. There is no dispute that Leasing of trust property is within the power conferred upon the Trustees in the Trust Deed to augment the trust corpus for spending on the objects for which the trust has been formed. The reliance of Id. Sr. Counsel on the decision of Hon'ble Delhi High Court in the case of DIT(E) vs Abul Kalam Azad Islamic Awakening: [2013] 215 Taxman 148 (Del), is squarely

applicable wherein the assessee's registration was cancelled under section 12AA(3) of the Act on the ground that in AY 2005-06, the assessee invested in a commercial property at Bangalore, which was not for charitable purpose and no educational activities were carried out in the said property. The Hon'ble High Court upheld the order passed by the Tribunal, which quashed the order passed by the DIT(E), on the ground that the Department failed to demonstrate that the assessee had applied rent received from the said property to any non-charitable purposes. The relevant extracts of the decision are reproduced hereunder:

*"3. We are of the view that the Tribunal had correctly appreciated the law and has come to the conclusion that the respondent assessee was entitled under Section 11(5)(x) to invest in immovable property out of the funds which were surplus with it. The Tribunal has also concluded that there was no evidence on the part of the department that the assessee had applied the rent received from the commercial property for non-charitable purpose. That being the case, the registration under Section 12A could not have been cancelled. We do not find any substantial question of law which arises for our consideration.*

*(emphasis supplied)*

17.2 Further reliance in this regard is rightly placed on the decision of Pune bench of the Tribunal in the case of Shri Mukund Bhavan Trust vs CIT(E): ITA No.1552/Pun/2024 (Pune Trib.), Delhi Tribunal decision in the case of Manjeet Kaur Memorial Premier Institute of Education vs ITO: ITA No.1824/Del/2016 (Del Trib.),

18. Coming to the allegations of alleged illegal kidney transplants undertaken in the hospital run by the Trust we find that there is no dispute that the Trust hospital was authorized to undertake kidney transplantation surgeries by the appropriate authorities cum Director & Research and Medical Education, Punjab. Chandigarh vide Certificate dated 30.05.1997 and was renewed from time to time, The permission was, however, withdrawn from 20.1.2003 by the Government of Punjab. During the aforesaid authorization period, transplantation surgeries were conducted at the trust hospital from 26.06.1997. The CIT(E) alleged that the doctors and manager of the Trust were involved in illegal transplant of kidneys and charges have been framed in this respect. Since it was discovered that the Appellant was engaged in criminal activities, the registration granted for performing kidney transplant was also cancelled by the State Government on 20.01.2003.

18.1 Now if criminality is concerned the same is alleged to be only of the doctors who were found to be guilty and were convicted of the crimes committed by them under sections 120-B, 201 and 304 of IPC and under section 19 of Transplantation of Human Organs Act whereas the employee/manager appointed by the Trust, namely, Mr. Hardial Mehta, was acquitted by the Trial Court on the ground that the prosecution has failed to prove its case beyond shadow of reasonable doubt. Except for Hardyal Mehta none of the accused or the convicted in these cases were the employees of the Trust. FIRs do not charge Trust or Trustees of any illegality of offence and have no

bearing on the charitable nature of the activities carried out by the trust at the hospital run by it.

18.2 There is no legal justification under the Act or rationality to vicariously hold an assessee liable for rejection of beneficial registration under the Act or for any disallowances unless the Trust and its Trustees are directly held responsible for any criminal action or an act of breach of public trust. Reliance can be placed for this proposition on decision of Mumbai Tribunal in **Padmashree Dr DY Patil-University vs DCIT: (2024] 159 taxmann.com 353 (Mumbai Trib.) and Guru Gobind Singh Educational Society vs CIT: [2009] 118 ITD 207, (Amritsar Trib.)**

18.3 No action was initiated post investigation against the Trust or the Trustees. But Trust hospital continued to operate as before without any objection by the Punjab Government or the Police Authorities. The suspension or cancellation of permission to Trust hospital w.e.f. 20.01.2003 by the Punjab Government under the Transplantation Human Organs Act, 1994 cannot be valid ground for cancellation of registration of a charitable trust under the Act as it was not merely for the organ transplant the charitable activity was recognised. The Trust Hospital was a multi-disciplinary hospital and transplant surgery was only one of the facilities. The Trust Hospital continued to operate post 20.01.2003 treating the patients in other medical ailments other than kidney transplant treatment. Income derived from the trust property has been utilised/ applied by the Appellant for the objects of the trust only.

19. Now, when the aforesaid aspects are taken into consideration, it leaves no doubt in the mind of this Bench that cancellation of registration by the impugned order was on the basis of certain alleged acts which occurred prior to 01.04.2022. The Revenue cannot dispute that the provisions for 'specified violations' are inserted in sub-section (4) of section 12AB w.e.f. 01.04.2022. Now, the 'specified violations' enumerated in section 12AB(4) recognise the specific nature and scope of violation giving rise to penal consequences of cancellation of registration. The first and foremost we would like to observe is that when the consequences are of the nature of withdrawing a recognition or cancellation of registration, the same can have a catastrophic effect on the existence of an institution and its activities. Thus, the provisions of the law have to be strictly interpreted and complied with.

19.1 As we take into consideration provisions and scope of 12AB(4) of the Act, we find that it refers to the powers granted for an action subsequent to grant of registration or provisional registration of a trust under section 12AA of the Act, and if, 'subsequently', specified violations are discovered, then, the competent authority is entitled to initiate an action by following a procedure enshrined in clauses (i) to (iv) of sub-section (4) of section 12AB of the Act.

19.2 It comes up that, clause (i) of sub-section (4) of section 12AB of the Act requires that the competent authority shall call for such documents or information from the trust or institution for making such inquiry as he think necessary in order to specify himself about the occurrence or otherwise of any

‘specified violation’. This clause (i) when read with clause (ii) of sub-section (4) of section 12AB of the Act indicates that the competent authority shall, before cancelling the registration, call for documents or information or make an inquiry as is necessary and, thereupon, after affording a reasonable opportunity of hearing to the assessee, cancel the registration. Thus, of sub-section (4) of section 12AB of the Act mandates that when the assessee is called upon to explain and justify the conclusions drawn for cancellation of the registration, the competent authority should have drawn a satisfaction as to what was the ‘specified violation’ which has taken place. Pertinent to mention again is that as observed while referring to sub-section (4) of section 12AB of the Act, the law vests jurisdiction in regard to only ‘specified violations’ found subsequently to the enactment of sub-section (4) of section 12AB of the Act. So it is also necessary that if competent authority intends to invoke cancellation powers with retrospective effects the same should be mentioned in the notice issued to show cause as per mandate of clause (i) when read with clause (ii) of sub-section (4) of section 12AB of the Act.

20. In case of the assessee, if we examine the show cause notice for cancellation of registration u/s 12AA(3)/12AB(4) of the Act issued on 14.03.2024, copy of which is placed at pages 548 to 549 of the paper book, we find that there is no reference to Explanation to sub-section (4) of section 12AB of the Act indicating as to for violation of which of the various ‘specified violations’ defined in clause (a) to (g) of the Explanation, the action

of cancellation of registration is called for explanation from the assessee. At the same time there is no mention that competent authority intends to invoke cancellation powers with retrospective effects.

21. To be very specific, this notice dated 14.03.2024 referred to four 'anomalies' in which 1 to 3 are with regard to certain acts which have occurred in the past, i.e., before 01.04.2021 and the fourth allegation is of fraudulent means wherein it is alleged that despite the registration of the trust was cancelled in 2008 and which was upheld by the ITAT, the assessee continued to file ITR-7 claiming exemption by quoting old registration number. Now, this fourth 'anomaly' cannot be considered to be falling into any of the clauses defining specified violations in the Explanation attached to sub-section (4) of section 12AB of the Act.

22. However, as the impugned order of cancellation of registration is considered, we find that in para 3.7 the competent authority makes specific reference to the class of 'specified violation' attracted and for which the assessee is being penalised by cancellation of registration and for convenience, we reproduce para 3.7 and 3.7.1, below:-

*“3.7 Specified Violation:*

*3.7.1 Next it is argued that no specified violation as per section 12AB has occurred. This plea is not accepted, for the following reasons:*

*(i) It is amply clear from discussion in Para-3.3 to 3.4.1 supra the property of trust has been applied, other than for the objects of the trust. Thus assessee has made violation as per Explanation (a) to 12AB(4)*

(ii) *It is amply clear from discussion in Para-3.3 to 3.4.1 supra the trust has income from profits and gains of business which is not incidental to the attainment of its objective. Thus assessee has made violation as per Explanation (b) to 12AB(4).*

(iii) *It is amply clear from discussion in Para-3.3 to 3.4.1 supra the activity carried out by the trust is not genuine and not being carried out in accordance with all or any of the conditions subject to which it was registered. Thus assessee has made violation as per Explanation (e) to 12AB(4).*

(iv) *It is amply clear from discussion in Para-3.4.1 supra the trust has not complied with TOHO (Transplantation of Human Organs and Tissues) Act, 1994, because of which its license for kidney transplantation was cancelled and never renewed. Thus assessee has made violation as per Explanation (f) to 12AB(4).*

(v) *It is amply clear from discussion in Para-3.5.1 & 3.5.2 supra the application made by trust u/s 12A(1)(ac) contains false and incorrect information. Thus assessee has made violation as per Explanation (g) to 12AB(4).”*

23. The aforesaid observations of the competent authority in paras 3.7 and 3.7.1 leaves no doubt in the mind of this bench that at the time of issuance of notice on 14.03.2024 calling upon the assessee to show cause for the purpose of clause (ii) of sub-section (4) of section 12AB of the Act the competent authority has not reached any conclusion on the basis of information called from the assessee or any independent inquiry as to which of the class of ‘specified violations’ defined in Explanation to sub-section (4) of section 12AB of the Act are being invoked. Neither there is proposal to cancel the registration retrospectively.

24. A co-ordinate bench on which one of us, the judicial member, was also in quorum, in **ITA No. 1308 /DEL/2023 Aggarwal Vidya Pracharni Sabha versus Principal Commissioner of Income Tax, Central Gurgaon vide**

**order dated 08.01.2024** was considering similar issue of challenge of cancellation of registration by invoking powers of section 12AB(4) of the Act and with regard to the requirement to disclose in show cause notice as to which class of 'specified violation' is invoked, has in para 17.1 concluded as follows;

*“17.1 Furthermore, here in this case, the exercise of power u/s 12AB(4) of the Act seems to also not have been done in accordance with law. As what comes up further is that, if at all, PCIT, Gurgaon was acting under clause (a) to Section 12AB(4), then, before issuing the notice dated 08.09.2022, itself the ld. PCIT, Gurgaon should have first formed his opinion that the assessee had committed one or more of a 'specified violation'. However, as we go through the relevant part of the impugned order we find that the ld.PCIT has not mentioned as to which amongst the various specified violations mentioned in Explanation attached to subsection (4) of section 12AB were attracted so as to show cause the assessee under sub-section (4) of section 12AB of the Act and ask for information by notice dated notice dated 08.09.2022.”*

24.1 This decision in **Aggarwal Vidya Pracharni Sabha (supra)**, has been challenged by the department before Hon'ble Punjab and Haryana High Court vide ITA-122-2024(O&M) and we find that the appeal is admitted vide order dated 12.12.2024, to examine three questions which are other than, aforesaid conclusion drawn by the co-ordinate bench. As for convenience the order dated 12.12.2024 of Hon'ble Punjab and Haryana High Court is reproduced below:-

*“ Having heard learned counsel for the parties and considering the provisions of Section 127 of the Income Tax Act, 1961 and explanation appended thereto, the present appeal is admitted on following questions of law:-*

- (i) *Whether on facts and circumstances of the case and in law, Hon'ble HAT is right in quashing the order passed u/s 12AB cancelling the registration of assessee trust by holding that the PCIT (Central), Gurugram does not have jurisdiction to pass the aforesaid order ?*
- (ii) *Whether on facts and circumstances of the case and in law, Hon'ble ITAT is right in only considering the CBDT Notification No.52/2014, S.O.2754(E) dated 22.10.2014 to hold that PCIT (Central), Gurugram does not have jurisdiction to pass order u/s 12AB(4) of the Act and not considering the CBDT Notification No.70/2014, S.O. 2915(E) dated 13.12.2014 according to which PCIT (Central), has very much jurisdiction to pass the aforesaid order ?*
- (iii) *As to whether PCIT would have the powers to pass an order u/s 12AB, after the jurisdiction of the case of assessee has been transferred under Section 127, which would also include all proceedings including registration ?”*

25. Lastly we take note of the decision of Hon'ble Mudurai Bench of Madras High Court in **M/s.S.R.Trust, Represented by its Trustee, B.Kannan versus PCIT, Chennai in W.P.(MD)No.14791 of 2021 and W.M.P.(MD)Nos.11697 and 11698 of 2021** order dated 18.08.2021 is also relevant where Hon'ble High Court has examined the scope of word 'subsequently' used in Section 12AB of the Act and has held that the words 'subsequently' occurred in Sub-Section 4 of Section 12AB shall be construed as 'subsequent to the registration under new regime. Para 33 is thus reproduced below;

*“33. In this context, even though an attempt has been made by the learned counsel appearing for the respondent revenue that the word 'subsequently' occurred in Sub-Section 4 of Section 12AB shall be construed as 'subsequent to the registration', even under the old regime, that is 12A and 12AA of the Act, this Court is not impressed with said interpretation sought to be given by the revenue side, as projected by the learned Standing Counsel, because, the entire procedure as has been contemplated under 12AB is the new procedure introduced, where the word 'subsequently', since has been intentionally made in the Sub Section, it means, after the registration is undertaken within the meaning of Section 12AB, then only, if any punitive action by way of cancellation of registration is to be undertaken by the revenue.”*

25.1 Thus it is only after the registration is undertaken within the meaning of Section 12AB, then only, if any punitive action by way of cancellation of registration is to be undertaken by the revenue same can be u/s 12AB of the Act, meaning there by that the ‘specified violations’ should be subsequent to the new regime coming into effect.

26. That being the case, we are of the considered view that the notice dated 14.03.2024 itself was defective and did not vest powers to cancel the registration for any alleged ‘specified violation’ and that too retrospectively. The aforesaid discussion also establishes that the ‘specified violations’ allegedly pertained to a period prior to 01.04.2022 thereby provisions of section 12AB(4) of the Act could not have been invoked. Thus, we are

inclined to hold that assumption of jurisdiction u/s 12AB(4) of the Act is vitiated and, thus, allow ground No. 5 to 10. The remaining grounds, thus, become superfluous and academic in nature and require no separate adjudication. Consequently, the appeal of the assessee is allowed. The impugned order is quashed.

Order pronounced in the open court on 12<sup>th</sup> November, 2025.

Sd/-

Sd/-

**[S. RIFAUR RAHMAN]**  
**ACCOUNTANT MEMBER**

**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

**Dated:** 12.11.2025

dk

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi