

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं. / ITA No: 581/RPR/2025**  
(निर्धारण वर्ष Assessment Year: 2012-13)

Chhattisgarh Swami Vivekanand Technical University, Vill- Newai, Bhilai, Dist. Durg, Bhilai Nagar- 491107, C.G.	v	Assistant Commissioner of Income Tax (Exemption), Civil Lines, Raipur-492001
PAN: AAAJC0741L		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	None
राजस्व की ओर से / Revenue by	:	Shri Ram Tiwari, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	17.11.2025
घोषणा की तारीख / Date of Pronouncement	:	18.11.2025

**आदेश / ORDER**

**Per Arun Khodpia, AM:**

The captioned appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi, [in short "Ld. CIT(A)"] passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 31.07.2025 for the Assessment Year 2012-13, which in turn arises from the assessment order u/s 143(3) r.w.s. 147 of the Act, dated 24.10.2019 passed by ACIT, Exemption Circle, Raipur (in short "Ld. AO").

2. The grounds of appeal raised by the assessee are as under:

1. *That the learned CIT(A), NFAC erred both on facts and in law in upholding the denial of exemption under section 10(23C)(iiiab) of the Income-tax Act, 1961 to the appellant-University, which is a statutory University established by the State Legislature of Chhattisgarh and existing solely for educational purposes and not for purposes of profit.*
2. *That the learned CIT(A) failed to appreciate that Rule 2BBB should be read in a more liberal manner and must be analysed beyond the mechanical scrutiny of receipt and payment account. The appellant university is under complete control of the government of Chhattisgarh. The university is fully adhering to the guidelines set by the Government of Chhattisgarh regarding admission of students, fees structure and management. The accumulated funds are kept as per the directions of the state government and therefore the appellant is eligible for exemption u/s 10(23C)(iiiab).*
3. *That the learned CIT(A) erred in rejecting the contention that fees collected from students as per fee structure approved and notified by the State Government amounts to indirect financing by Government. The fixation and regulation of fee by Government establishes pervasive Government control, and such receipts must be considered as part of Government support. The appellant university is under complete control of the government of Chhattisgarh. The Hon'ble Governor of Chhattisgarh State is the Chancellor of the University. Surplus funds if any are being reinvested into the university's educational objectives rather than being distributed for personal gain. It is kept by the university as Government Fund. It reflects the institution's commitment to its mission and shows that the university is operating in line with its non-profit status and educational focus. Therefore the appellant is eligible for exemption u/s 10(23C)(iiiab).*

*For claiming exemption u/s 10(23C)(iiiab) any university or other educational institution should exist solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government. The appellant university qualifies all the said criteria and is eligible for exemption.*

4. *That the benefit of exemption under section 11 and 12 of the Act to the appellant should be allowed in view of the second proviso to section 12A(2), since the appellant has been granted registration under section 12AA by Ld. CIT, Exemptions, Bhopal on 02.01.2020 and the assessment for AY 2012-13 was pending in appeal on that date. As per law, the benefit of registration should be available for this pending year also.*

*In order to get the benefit of second proviso to Section 12A(2), three conditions have to be satisfied viz. (i) the registration must have been granted to assessee, (ii) the preceding year must be such whose assessment-proceedings were pending before the Assessing Officer as on the date of such registration, and (iii) the object and activities of the trust or institution remain*

*the same for such preceding assessment year. Admittedly, the appellant university has been granted registration u/s 12AA by department on 02.01.2020 i.e. w.e.f. A.Y. 2020-21 and on the same time the case for A.Y. 2012-13 was pending before Ld. CIT(Appeals) and presently pending before Hon'ble ITAT, Raipur bench in this appeal. The object and activities of the appellant university is also same. All three of the above conditions are met in case of appellant university and therefore it is entitled to claim exemption under section 11 of the Act.*

5. *That the order of the learned CIT, Appeals upholding the assessment of surplus of Rs. 13,93,43,100.00 as taxable income is unjustified, contrary to law and liable to be quashed.*
6. *That the appellant craves leave to add, amend, alter or withdraw any ground of appeal at the time of hearing.*

3. The brief facts of the case culled out from the order of Ld. CIT(A), reads as under:

**Facts of the case**

*This case was reopened u/s 147 on the basis of certain information about cash deposits in the savings bank account and time deposits made with the bank. In response to notice u/s 148 dated 27.03.2019, the appellant filed its return of income for the AY 2012-13 on 26.06.2019, declaring 'nil' income. Notices u/s 143(2) and 143(1) were issued, in response to which the appellant filed submissions from time to time. It was submitted that Chhattishgarh Swami Vivekanad Technical University was established by an act (No 25/2004) of legislature passed by the Chhattishgarh State Govt. Assembly vide notification no. 639/21-A/Praroopan/04 dated 21st January 2005 to incorporate a university and technology for the purpose of ensuring systematic, efficient and quality education in engineering and technological subjects including architecture and pharmacy at research, post graduate, degree and diploma level. The AO observed that as per audit report for the relevant year, total receipts was Rs.23,11,89,205/- and after claiming various expenses of Rs.9,18,46,156/-, total surplus of the appellant was Rs.13,93,43,049/-. The AO*

*observed that revenue grant received by the appellant was Rs.1,21,72,494/- and capital grant received was for Rs.1,30,48,000/-. These two grants from the Govt. constituted 10.33% of the total receipts during the year. Therefore, the provisions of section 10(23C)(iiiab) was not applicable in the case of the appellant, since it was not wholly or substantially financed by the Govt. The AO observed that provisions of the section 10(23C)(iiiad) was also not applicable, since the aggregate annual receipts exceeded Rs.5 crore. Further, section 10(23C)(vi) was also not applicable, since the appellant was not registered in terms of Section 12AA of the Act. The AO passed the assessment order u/s 143(3)/147 on 24.10.2019, disallowing exemption for the surplus amount of Rs.13,93,43,100/- as per income and expenditure account. Total income was assessed at Rs.13,93,43,100/-, raising a demand of Rs.8,49,51,090/-. The present appeal is against this assessment order.*

**4.** The case of assessee was reopened u/s 147 as the assessee has deposited cash of Rs. 10 Lacs or more in saving bank account aggregating to Rs. 69,76,235/-, time deposit exceeding 2,00,000/- with Banking company for Rs.32,11,28,563/- and received interest other than interest on securities for Rs. 890/-. However, the assessee had not filed its return of income in spite of the fact that the total income has exceeded the maximum amount which is not chargeable to income tax.

**5.** On perusal of the order of Ld. CIT(E), it is emanating from the statement of facts submitted by the appellant that the university has already applied for registration u/s 12AA of the Income Tax Act, 1961 and request to grant exemption with retrospective effect i.e., from the beginning of the

university and the application is pending before the Ld. CIT(E). Before us also, the assessee has furnished a statement of facts, wherein it is stated that the assessee appellant was granted registration u/s 12AA by Ld. CIT(E), Bhopal on 02.01.2020, prior to the order of Ld. CIT(A) dated 31.07.2025. It is further stated by the assessee in terms of 2<sup>nd</sup> Proviso to Section 12A(2) (inserted by Finance (No.2) Act, 2014), that the benefit of Section 11 & 12 must be extended to AY 2012-13 as the assessment for this year was pending in appeal on the date of registration. Thus, even if the exemption u/s 10(23C)(iiiab) is denied, the appellant is entitled to exempt u/s 11 & 12.

**6.** Referring to the aforesaid contention by the assessee stating that the registration u/s 12AA was granted to assessee on 02.01.2020 with effect from AY 2020-21, and at that time the assessment proceedings for AY 2012-13 was pending before the Ld. CIT(A), therefore, the assessee is eligible for grant of exemption u/s 11 & 12 of the Act. To examine the issue in hand the applicable provisions of section 12A are extracted as under:

***Conditions for applicability of [sections 11](#) and [12](#).***

***12A. (1) The provisions of [section 11](#) and [section 12](#) shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—***  
***(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Principal Commissioner or Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the***

institution, whichever is later and such trust or institution is registered under [section 12AA](#) :

**Provided** that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of [sections 11](#) and [12](#) shall apply in relation to the income of such trust or institution,—

- (i) from the date of the creation of the trust or the establishment of the institution if the Principal Commissioner or Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;
- (ii) from the 1st day of the financial year in which the application is made, if the Principal Commissioner or Commissioner is not so satisfied:

**Provided further** that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;

(aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under [section 12AA](#);

(ab) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under [section 12AA](#) or has obtained registration at any time under [section 12A](#) as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996), and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under [section 12AA](#);

(ac) <sup>42</sup>[\*\*\*]

**Following clause (ac) shall be inserted after clause (ab) of sub-section (1) of section 12A by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021 :**

*(ac) notwithstanding anything contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution,—*

- (i) where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (12 of 2020)], within three months from the 1st day of April, 2021;*
- (ii) where the trust or institution is registered under section 12AB and the period of the said registration is due to expire, at least six months prior to expiry of the said period;*
- (iii) where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier;*
- (iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;*
- (v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;*
- (vi) in any other case, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought, and such trust or institution is registered under section 12AB;*

*(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of [section 11](#) and [section 12](#) exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of [section 288](#) [before the specified date referred to in [section 44AB](#) and the person in receipt of the income furnishes by that date] the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;*

*(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of [section 139](#), within the time allowed under that section.*

(c) [\*\*\*]

***(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:***

***[Provided that where registration has been granted to the trust or institution under section 12AA]], then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending<sup>31</sup> before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:***

***[Provided further]] that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:***

***Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under [section 12AA]].]***

7. We have noticed that towards the aforesaid contention of the assessee, Ld. CIT(A) has observed that the order for registration u/s 12AA dated. 02.01.2010 exempts the assessee under the provisions of section 11 & 12 w.e.f. AY 2020-21 and, therefore, the year under consideration i.e., the AY 2012-13, the appellant is not covered by this order of Ld. CIT(E), Bhopal. However, in the factual situation of the present matter, the applicability of proviso to section 12A(2) (extracted supra) was not interpreted or denied by the Ld. CIT(A).

**8.** In this context, we find that the order of Ld. CIT(A) is suffering with discrepancy by not examining the proviso to section 12A(2) of the Act and its applicability in the present matter, even when the order for registration u/s 12AA dated 02.01.2020 was very much available to him. The order of Ld. CIT(A), therefore, needs to be set aside to examine and re-adjudicate the aforesaid issue, after verifying the facts from records, in accordance with the mandate of law. On this count, we find it appropriate to restore this matter back to the file of Ld. CIT(A) to verify and adjudicate the aforesaid contention of the assessee and thereafter decide the issue in accordance with the principle of law.

**9.** Ld. CIT- DR representing the matter on behalf of the revenue, on this count has fairly agreed with the observation of the Bench on the issue and has agreed to the decision to remand the matter back to the file of Ld. CIT(A) to examine the aforesaid aspect.

**10.** In backdrop of aforesaid facts and circumstances, the matter is restored back to the file of Ld. CIT(A) to adjudicate the issue afresh, in terms of our aforesaid observation.

**11.** In result, the appeal of assessee is **allowed** for statistical purposes in terms of our aforesaid observation.

Order pronounced in the open court on 18/11/2025.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ARUN KHODPIA)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**रायपुर / Raipur; दिनांक Dated 18/11/2025**  
*Vaibhav Shrivastav, Stenographer*

**आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant- Chhattisgarh Swami Vivekanand Technical University
2. प्रत्यर्थी/ The Respondent- ACIT(Exemption)
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur