

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.174 & 175/PUN/2024

Dnyanyogi Foundation, Flat No. 706, Ramprasad Complexes, Chandi Chowk, Sangli Miraj Road, Sangli-416416 PAN : AADTD6282G	Vs.	CIT, Exemption, Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Kishor B. Phadke
Department by :	Shri Amol Khairnar
Date of hearing :	02-09-2025
Date of Pronouncement :	21-11-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The above two appeals filed by the assessee are directed against the separate orders both dated 05.12.2023 of the Ld. Commissioner of Income Tax (Exemption), Pune (**“CIT(E)”**) rejecting the application(s) for grant of registration u/s 12A and approval u/s 80G of the Income Tax Act, 1961 (**the “Act”**). For the sake of convenience, both these appeals were heard together and are being disposed of by this common order.

2. In ITA No.174/PUN/2024, the assessee has challenged the order of the Ld. CIT (E) in rejecting the application for registration u/s 12A of the Act while ITA No.175/PUN/2024 relates to the order of the Ld. CIT(E) in denying the approval u/s 80G of the Act.

3. Facts of the case in ITA No.174/PUN/2024, in brief, are that the assessee filed an application in Form No.10AB on 09.06.2023 for

registration of the trust under clause (iii) of section 12A(1)(ac) of the Act. With a view to verify the genuineness of the activities of the assessee and compliance to requirements of any other law for the time being in force by the trust/institution as are material for the purpose of achieving its objects, a notice was issued through ITBA portal on 21.08.2023 requesting the assessee to upload certain information/clarification contained therein by 01.-09.2023. As the assessee failed to comply, another notice was issued on 16.09.2023 seeking compliance by 25.09.2023. The Ld. CIT(E) while going through the details submitted and documents filed by the assessee found certain discrepancies for which he issued a show cause notice on 19.10.2023 requesting the assessee for necessary compliance. The said discrepancies recorded by the Ld. CIT(E) in para 5 of the impugned order is reproduced below:

"(i) You are requested to furnish the copies of bills/ invoices, receipts, voucher, etc in respect of expenditure shown in your financial statements.

(ii) Addition to bal. sheet of Rs. 3 Lakhs and Rs. 51.75 Lakhs under the head loans has been made for FYs 2020-21 & 2021-22 respectively. However, details of the same via source, purpose and its utilisation for trust objects along with copy of permission under section 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner.

(iii) Trust has given advance for purchase of land. Details of the transaction and purpose has not been submitted with relevant supporting documents."

3.1 The assessee filed its response to the above queries. On perusal of the assessee's reply and the documents, the Ld. CIT(E) further noticed certain discrepancies, listed below, which were communicated to the assessee by issue of one more show cause notice on 16.11.2023 seeking compliance by 22.11.2023:

"(i) Trust has received large corpus/earmarked fund donations. However, copies of specific directions from trustees are not furnished.

(ii) Trust has furnished copy of resolution dt. 14/06/2021 and not the authenticated copy of original resolution. As such genuineness of the same remained unproved.

(iii) Further, resolution to raise was passed in connection with land owned by Shri. Aniket Chougule. However, it is stated that part of loans were utilized to purchase other land. This amounts to diversion of funds for the purpose not specifically provided for.

(iv) As per supporting documents, note etc, land admeasuring 4.25 Hector is purchased for activities like construction of Shiv mandir, Dhyan mandir, tree plantation, sadhak niwas, liabrary, Yoga centre, annachhatra, goshala, talav and gurukul. It is, however, seen from the trust deed that activities of

construction of Shiv mandir, Dhyan mandir, sadhak niwas, Yoga centre, goshala, talav and gurukul are not included in the objects of the trust.

(v) There has been further addition to loans in FY 2022-23. No clarification has been given on the same."

3.2 The assessee furnished its reply to the above discrepancies on 04.12.2023 within the extended time frame allowed by the Ld. CIT(E) on its request. After considering the submissions of the assessee, the Ld. CIT(E) proceeded to pass the impugned order rejecting the application of the assessee and also cancelling the provisional registration granted earlier by observing as under :

"9. It was noticed that the assessee trust had taken considerable amounts of loans. Hence, the assessee was requested to furnish details of the same viz source, purpose and its utilisation for trust objects along with copy of permission under section 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner. In reply, the assessee stated that loans were taken from trustees for acquisition of land for proposed ashram since the transaction was to be completed on priority and availing loans from bank was a lengthy process. It is, however, seen that the trust has not taken permission u/s 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner. The assessee has further requested to drop the objection. The contention of the assessee is duly considered. However, the same is not found to be acceptable. Section 36A(3) of the BPT Act, 1950 provides that " no trustee shall borrow moneys (whether by way of mortgage or otherwise) for the purpose of or on behalf of the trust of which he is a trustee, except with the previous sanction of the Charity Commissioner, and subject to such conditions and limitations as may be imposed by him in the interest or protection of the trust." Thus, said provision mandates the trust to obtain previous sanction from Charity Commissioner in respect of any loan. The assessee, however, has failed to comply with the said provisions and thereby failed to comply with the requirement of any other law for the time being in force as are material for the purpose of achieving its objects.

9.1 Without prejudice to the above, it was further noticed that the resolution to raise loans was passed in connection with land owned by Shri. Aniket Chougule. However, as stated in the assessee's reply, part of loans were utilized to purchase other land. This amounts to diversion of funds for the purpose not specifically provided for. The assessee was, therefore, requested to justify the issue. In reply, the assessee contended that once the physical possession of land (owned by Shri. Chougule) was taken over by the trust neighboring land-owners got to know about the said transactions and they were desire to sell the land and approached the trust with intention to sell the portion of land adjacent to the existing land and same Gat. The assessee further contended that buying adjacent land having common boundaries through loan raised for main land was an incidental activity and was strategically important to meet the objectives of the trust. Contending thus, the assessee requested to drop the objection on the ground that said transactions does not amounts to diversification of funds.

9.2 The contention of the assessee is duly considered. However, the same is not found to be acceptable. In reply dt. 07/11/2023, the assessee has stated that it was decided to acquire land admeasuring 4.25 Hector, owned by one Shrt. Aniket B Chougule for proposed ashram for a consideration of

Rs. 1.23 Crores. As raising loans from bank was a lengthy matter, the trustees, vide resolution dt. 14/06/2021, decided to raise loans from trustees and devotees of Dnyanyogi Shree Siddheshwar Swamijee. Thus, as per resolution, the funds so raised were to be utilized only for acquiring 4.25 Hecter land owned by Shri. Chougule. Hence, the assessee trust was required to utilize said funds only for the purpose as provided for in the resolution. The assessee, however, went beyond the prescribed scope in utilizing the funds. It is the contention of the assessee that-buying adjacent land (0.71 Are) through loan raised for main land was an incidental activity and was strategically important to meet the objectives of the trust. However, the assessee's submission proves this contention to be wrong. In reply, the assessee itself has stated that once the physical possession of land (owned by Shri. Chougule) was taken over by the trust neighboring land-owners got to know about the said transactions and they were desire to sell the land and approached the trust with intention to sell the portion of land". This shows that the assessee had no plan, at least till the completion the transaction in respect of 4.25 Hecter land, to purchase the other land (0.71 Are). Therefore, buying said land cannot be considered as an incidental activity as contended by the assessee.

10. Further, the assessee has stated that land admeasuring 4.25 Hecter was purchased for activities like construction of Shiv mandir, Dhyan mandir, tree plantation, sadhak niwas, liabrary, Yoga centre, annachhatra, goshala, talav and gurukul. It is, however, seen from the trust deed that activities of construction of Shiv mandir, Dhyan mandir, sadhak niwas, Yoga centre, goshala, talav and gurukul are not included in the objects of the trust. In reply, the assessee has admitted that that said activities are not included in the current Memorandum of Association. It further contended that the trust is in the process for making changes in Memorandum of Association and has filed documents with the Charity Commissioner office, Sangli on 23/11/2023.

10.1 The assessee has admitted of undertaking activities which are not provided for in the Trust Deed. It was requested to furnish clarification vide this office notice dt. 16/11/2023 and as mentioned in the reply, the assessee has filed application before the Charity Commissioner for amending objects only on 23/11/2023. This shows that the assessee has taken steps in this regard only after a specific query by this office.

11. In view of the above, the undersigned is not satisfied about the genuineness of activities of the assessee and compliance to requirements of any other law for the time being in force by the trust /institution as are material for the purpose of achieving its objects. Therefore, the application filed by the assessee is hereby rejected and the provisional registration granted on 24/03/2022 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled."

4. Aggrieved with such order of the Ld. CIT(E), the assessee is in appeal before the Tribunal by raising the following grounds:

"1. The learned CIT (Exemption), Pune; erred in law and on facts in rejecting appellant's application for registration u/s 12A of ITA, 1961. The learned CIT (Exemption), Pune; ought to have appreciated that appellant's activities are genuine and bonafide, and as such, eligible for registration u/s 12A of ITA, 1961.

2. *The learned CIT (Exemption), Pune; erred in law and on facts in not providing reasonable opportunity of being heard to the appellant, as provided u/s 12AB of the ITA, 1961; to submit the details / information. As such, the rejection order passed by the learned CIT (Exemption), Pune; is bad in law and needs to be set-aside.*
3. *The learned CIT (Exemption), Pune ought to have appreciated the facts that obtaining permission of charity commissioner is technical / procedural in nature and curable issue.*
4. *The learned CIT (Exemption), Pune ought to have appreciated that buying land and construction of Shiv Mandir, Dhyan Mandir and other activities are incidental to the objects of the appellant and as such within the ambit of the object clause of the trust.*
5. *Appellant craves leave to add, alter, clarify, explain, modify, delete any or all of the grounds of appeal, and to seek any just and fair relief.”*

5. Admittedly, the facts of the case in ITA No. 175/PUN/2024 are similar to that of ITA No. 174/PUN/2024 narrated above. Similar grounds have been raised in ITA No. 175/PUN/2024 which read as under:

- “1. *The learned CIT (Exemption), Pune; erred in law and on facts in rejecting appellant's application for registration u/s 80G of ITA, 1961. The learned CIT (Exemption), Pune; ought to have appreciated that appellant's activities are genuine and bonafide, and as such, eligible for registration u/s 80G of ITA, 1961.*
2. *The learned CIT (Exemption), Pune; erred in law and on facts in not providing reasonable opportunity of being heard to the appellant, as provided u/s 80G of the ITA, 1961; to submit the details / information. As such, the rejection order passed by the learned CIT (Exemption), Pune; is bad in law and needs to be set-aside.*
3. *The appellant contends that learned CIT(E) ought to have decided the matters on merits i.e., on the tests of bonafide objects, genuine activity, etc. instead of the hyper-technical aspect of delay in filing the requisite form for registration. The learned CIT(E) ought to have appreciated the facts that amendments were introduced to simplify the procedure of registration of Charitable Trusts/Institutions. The amendment made to simplify a procedure cannot be interpreted in a way that causes prejudice to the Trust/institutions.*
4. *The learned CIT (Exemption), Pune ought to have appreciated the facts that obtaining permission of charity commissioner is technical / procedural in nature and curable issue.*
5. *The learned CIT (Exemption), Pune ought to have appreciated the fact that buying land and construction of Shiv Mandir, Dhyan Mandir and other activities are incidental to the objects of the appellant and as such within the ambit of the object clause of the trust.*
6. *Appellant craves leave to add, alter, clarify, explain, modify, delete any or all of the grounds of appeal, and to seek any just and fair relief.”*

6. It is the submission of the Ld. AR that since the Ld. CIT(E) has rejected the grant of registration u/s 12A of the Act and cancelled the provisional registration granted earlier, he refused to grant approval u/s 80G of the Act.

7. The Ld. AR submitted that the key issue involved in both the appeal(s) under consideration is emanating from the observation made by the Ld. CIT(E) that firstly, the trust has taken loan from its trustees without obtaining permission from the Charity Commissioner and secondly, the trust has carried out activities which are not within the ambit of object clause of the trust deed. Reiterating the submissions made before the Ld. CIT(E), the Ld. AR submitted that the assessee had filed the basic documents such as return of income, audited financials and the detailed submissions responding to the discrepancies noticed by the Ld. CIT(E). He submitted that loan was raised by the assessee trust for the purpose of acquiring the land for building Dnyanyogi Ashram surrounded by spiritual meditation center, tree plantation, Sadhak Niwas, Library, Yoga Center Goshala, etc. The act of buying adjacent land having common boundaries through loan raised for main land is an incidental activity and was strategically important to meet the objectives of the trust. He submitted that the assessee had initiated the process for amending its Memorandum of Association ("**MOA**") and filed the relevant documents with the Charity Commissioner, Sangli on 23.11.2023. The assessee received the approval order passed by the Assistant Registrar of the Societies, Sangli and the Assistant Charity Commissioner, Sangli for amendment of MOA on 08.04.2024 (page 226 to 231 and page 232 to 237 of the paper book-II respectively refers) which is subsequent to the impugned order(s) passed by the Ld. CIT(E). A copy of the amended MOA is also now placed on record (page 238 to 271 of the paper book-II refers).

8. Referring to page 169 to 189 of the paper book-I containing a copy of the Resolution passed for raising loan as well as Resolution for amending trust deed, the Ld. AR submitted that these documents were duly submitted before the Ld. CIT(E) vide submission dated 04.12.2023. The Ld. AR submitted that the assessee made detailed submissions before the Ld. CIT(E) on 15.09.2023, 07.11.2023 and 04.12.2023 (pages 202 to 225 of

the paper book-I refers). However, the Ld. CIT(E) has rejected the registration application of the assessee on hyper technical ground without considering the above submission(s) of the assessee.

9. As regards the permission of the Charity Commissioner in respect of the loan taken from the trustees, the Ld. AR submitted that the assessee has already applied now for the required approval of the Charity Commissioner vide application dated 01.09.2025, a copy of which has been placed on record. Without prejudice, he submitted that the provisions of section 36A of the Bombay Public Trust Act, 1950 may not even apply to the assessee as none of the characteristic of the loan is present in the instant case viz, there is no interest charge, no repayment schedule/tenure for repayment and no collateral security is issued. The Ld. AR relied on the decision of the Hon'ble Bombay High Court in the case of Director of Income-tax (Exemption), Mumbai Vs. G.K.R. Charities (2013) 32 taxmann.com 208 (Bom) and brought the attention of Bench to para 2 of the said decision wherein the Hon'ble High Court has observed as under:

“In this case, there is no bar in the Trust Deed to take unsecured loans. The breach, if any, is in failing to comply with the provisions of the Trust Act in an earlier year. Moreover, it is not in dispute that the unsecured loans taken in earlier years were duly reflected in the books maintained by the assessee and though prior approval was not obtained, the assessee had, in fact, subsequently applied for approval from the Charity Commissioner and the Charity Commissioner has neither granted approval nor initiated any proceedings under the Trust Act for the alleged violation of obtaining unsecured loan without prior permission. In these circumstances, we see no reason to entertain question (a) as proposed by the revenue”.

10. Further, placing reliance on the decision of the Nagpur Bench of the Tribunal in the case of Shri Chhatrapati Shahu Maharaj Shikshansansta Vs. Income Tax Officer in ITA No. 368 & 369/Nag./2024, dated 14.05.2025, he submitted that the Tribunal under the similar set of facts has decided the impugned issue in favour of the assessee directing him to grant registration to the assessee.

11. The Ld. AR submitted that the activities carried out by the assessee trust are genuine and bonafide activities and therefore the assessee is eligible for registration u/s 12A of the Act. He reiterated that the requirement of obtaining permission of the Charity Commissioner is

technical/procedural in nature and curable issue. Though, in fact, the loans from the trustees are not in the nature of loan as such, however, the assessee has already applied for permission of the Charity Commissioner which is currently pending before him. He submitted that purchase of land and construction of Mandir and other activities are incidental to the object of the assessee trust and thus fall within the ambit of the object clause of the trust. The assessee has amended its MOA and the approval order(s) passed by the Assistant Registrar of the Societies and the Assistant Charity Commissioner, Sangli has also been received by the assessee, a copy of which is placed on record. However, he submitted that these documents contained in paper book-II and paper book III filed before the Tribunal are additional evidences which could not be submitted before the Ld. CIT(E) as these were not available at the time of proceedings before the Ld. CIT(E). He submitted that the additional evidences filed by the assessee has a substantial bearing on the case and therefore prayed that in the interest of justice these additional evidences may be admitted and the impugned issue(s) may be decided after considering the same. In support thereof, he relied on the decision of the Hon'ble Supreme Court in the case of Tek Ram Vs. CIT (2013) 357 ITR 133 wherein it has been held that where documents filed by the assessee before the Court had some relevance, the same should be considered while deciding the appeal. The Ld. AR therefore submitted that the present appeal may be set aside to the file of the Ld. CIT(E) with a direction to decide the assessee's application(s) for registration afresh specifically taking into consideration the additional evidence i.e. amended MOA, approval(s) granted by the Assistant Charity Commissioner and the Assistant Registrar of the Societies as well as the application filed for approval of Charity Commissioner and the other submissions already on record in respect of the loan transactions made by the assessee, after giving due opportunity of hearing to the assessee.

12. The Ld. DR, on the other hand, relied on the order(s) of the Ld CIT(E).

13. We have heard Ld. Representatives of the parties, perused the order(s) of the Ld. CIT(E) and paper book(s) including the additional evidences filed by the Ld. AR on behalf of the assesses. We have also

perused the judicial precedents cited before us. From the perusal of the impugned order of the Ld. CIT(E), we find that he was not satisfied about the genuineness of the activities of the assessee trust and compliance to the requirements of the Trust Act for the reasons that the assessee trust has raised loans from its trustees without obtaining permission of the Charity Commissioner; purchase of land is not an incidental activity of the trust; and construction of Shiv Mandir, Dhyan Mandir etc. are not included in the MOA of the trust. The Ld. CIT(E) therefore has rejected the assessee's application for registration and also cancelled the provisional registration granted earlier under section 12A of the Act for the reasons reproduced in the preceding paragraphs. Since the application for grant of registration u/s 12A of the Act was rejected and the provisional registration granted earlier was cancelled, he rejected the application for approval u/s 80G of the Act too. We find some force in the above stated contentions raised by the Ld. AR. Before us, the Ld. Counsel for the assessee has placed a copy of the approval order(s) both dated 08.04.2024 passed by the Assistant Registrar of the Societies and the Assistant Charity Commissioner, Sangli for amendment of the MOA along with a copy of the amended MOA and also a copy of the application filed by the assessee for obtaining the requisite approval of the Charity Commissioner, by way of an additional evidence which we hereby admit since in our view, the same goes to the root of the matter and has substantial bearing on the case. It is the submission of the Ld. Counsel for the assessee has requested that an opportunity may be granted to the assessee to represent its case before the Ld. CIT(E) by filing all the requisite documents/details/additional evidences to his satisfaction. Considering the totality of the facts and in the circumstances of the case, we deem it fit to set aside the impugned order(s) of the Ld. CIT(E) and restore the issues back to his file for decision afresh in light of the additional evidences filed by the assessee and also such further submission that may be made by the assessee to substantiate its case during the course of fresh proceedings. Needless to say, the assessee is also hereby directed to appear and make his submission(s) before the Ld. CIT(E) as may be required/ called upon on the appointed date without seeking any adjournment under any pretext unless required for the sufficient cause, failing which the Ld. CIT(E) shall be at liberty to pass appropriate order(s) as per law. We hold and direct accordingly. The

grounds raised by the assessee in both the appeals are accordingly allowed for statistical purposes.

14. In the result, both the appeals in ITA Nos. 174 & 175/PUN/2024 filed by the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 21st November, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21st November, 2025.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune