



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, GOA
BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER
ITA Nos. 162 & 290/PAN/2025

Ashajoyti SC/ST Mahila Abhivruddhi Kendra
10564/A5, Opp. Vidyadeeraj Kalyan Mantap,
Dharmanath Circle, Ram Nagar, Belgaum.
PAN : AAAAAA3760C

..... *Appellant*

V/s

The Commissioner of Income Tax,
Exemption, Bangalore.

..... *Respondent*

Appearances

Assessee by : Mr Noel Gole ['Ld. AR']

Revenue by : Mr M Satish ['Ld. DR']

Date of conclusive Hearing : 17/12/2025

Date of Pronouncement : 17/12/2025

ORDER

PER G. D. PADMAHSHALI;

The present twin appeals of the assessee are assailed against separate orders of Ld. Commissioner of Income Tax (Exemption), Bangalore ['CIT(E)'] both dt. 27/03/2025 passed u/s 12AB(4) & 80G(5) of the Income-tax Act, 1961 ['the Act'] whereby the application for grant of regular 12AB & 80G registrations were rejected.



2. Since facts involved in this twin appeals and issue dealt therein are common & inter connected, on rival party's joint request these appeals for the sake of brevity & convenience are heard together for being disposed-off by this common & consolidated order.

3. At the outset the Ld. Gole candidly brought to notice that, the present appeals are filed with a delay of 99 days, however requisite appeal fees for preferring these appeals were paid in time. A separate petition for condonation of delay is placed on records, wherein cause of delay is explained to have filed combine appeal for two separate rejections/orders, which now been corrected. The reasons stated therein and explained in physical hearing establishes '*sufficient cause*' and thus falls within the parameters laid in '*Vijay Vishin Meghani Vs. DCIT & Anr*' reported 398 ITR 250 (Bom) and '*Collector, Land Acquisition,*



Anantnag and Anr. Vs Ms Katiji and Others' reported at 167 ITR 5 (SC). In view thereof in the larger interest of justice we deem it fit to condone delay in instituting the present appeals u/s 253(1) of the Act and proceed to adjudicate limited issue of *ex-parte* rejections. Recording the same, advanced accordingly.

4. Briefly stated common facts borne out of these case records are; the assessee is a society established on 03/05/1996. Pursuant to separate applications filed under amended provisions of the Act, the assessee society was accorded provisional registrations u/s 12AB r.w.s. 12A(1)(ac)(vi) and also 80G of the Act on 06/04/2022. The said provisional registrations were valid for AY 2022-23 to 2024-25 only. Pursuant to such provisional registrations the assessee in seeking grant of regular registration u/s 12A(1)(ac)(iii) under the category of charitable



institution etc., e-filed an application in Form No 10AB on 26/09/2024. Further in addition to above the assessee society by separate application in Form No 10AB of even date had also applied for grant of 80G certificate u/s 80G(iii) of the Act.

5. The Ld. CIT(E) in-order to verify objects, activities and to ascertain the fulfilment of conditions for granting registration u/s 12AB and recognition u/s 80G of the Act was put the assessee to twin notices dt. 09/01/2025 & dt. 17/02/2025 which were effectively replied by the assessee. After considering material placed on records, the Ld. CIT(E) came to reject the application and thus denied to grant regular registration u/s 12AB of the Act in first place. Pursuant thereto, the application for grant of regular 80G recognition was also rejected as a consequential denial/rejection.



6. Aggrieved by the aforestated rejections the assessee society has set-up these twin appeals against respective impugned orders alleging the action of Ld. CIT(E) as arbitrary and violative of principle of *audi alteram partem*. Solidifying the facts from the records, the Ld. AR pressed for remand, which the Ld. DR could hardly contest.

7. We have heard both rival parties; and subject to the provisions of rule 18 of ITAT Rules, perused material placed on record which suggests that, the preliminary submission of the appellant did fail to give plausible response to various queries and discrepancies raised by the registering authority and also failed to substantiate its activities with cogent evidences so as enable him to draw a reasonable conclusion about the genuineness of the activities of the appellant.



8. As we further note that, during the course of proceedings, vide notice dt. 09/01/2025 the appellant was called upon to furnish certain key documents so as to enable the Ld. CIT(E) to come to positive conclusion over the genuineness of activities of the society. From the perusal of paper book placed on record it revealed that, the appellant diligently complied with solitary notice by adducing the required documents & statements etc. After their pursual the Ld. CIT(E) rejected the twin applications of the appellant without further opportunity. While doing so the Ld. CIT(E) came to twofold negative finding that; (i) the assessee failed to maintain its books of account in accordance with provisions of the Act & rules and (ii) also failed to demonstrate objective utilization of substantial cash withdrawal made post their deposits into its bank accounts.



9. In so far as the application for 12AB is concerned, it is observed that, for the want of evidences in support of activities purported to be engaged by the assessee, explanation regarding compliance with maintenance of books of accounts in terms of prescribed rules/provisions of the Act, as well as the explanation about the utilization of cash withdrawal in furtherance of objectives of the appellant society, the Ld. CIT(E) without putting the assessee to show-cause has rejected the said application which triggered cancellation of provisional registration granted to it u/s 12AB r.w.s. 12A(1)(ac)(iii) of the Act. Consequent to the aforestated denial to grant regular registration u/s 12AB of the Act, as a corollary the application of the appellant society seeking regular registration for 80G is also rejected by the Ld. CIT(E) by an impugned order of even date.



10. Both the impugned orders ostensibly reveals that, in coming to reject the former applications, the appellant was provided with much less opportunity to make good the deficiency and more particularly to negate the adverse findings of the Ld. CIT(E). This action in our consideration view deprived the appellant from reasonable opportunity which is violative of principle of natural justice as commanded by s/c (B) of section 12AB(1)(b)(ii) and clause (ii)(b)(B) of 2nd proviso to 80G(5) of the Act r.w.p. to rule 11AA(5) of the IT-Rules, 1962.

11. It is a trite law as laid down by Hon'ble Supreme Court in case '*Chandra Kishore Jha Vs Mahavir Prasad*' reported in 8 SCC 266 (SC), that 'if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner'.



12. It shall be worthy to also underline that the opportunity of being heard should be real, reasonable and effective and same should not be empty formalities, it should not be a paper opportunity. In view of High court of Patna's decision in '*St. Paul's Anglo Indian Education Society*' [2003, 262 ITR 377 (Pat)]' in the event where assessee is deprived of reasonable opportunity and time to produce all relevant documents to substantiate its claim, any consequential order passed by the Revenue against the assessee violates the basic principle of natural justice, hence such action is unsustainable in law.

13. In view of the former ratio, in our considered view, the Ld. CIT(E)'s failure to confront his negative satisfaction or his dissatisfaction over the application to the appellant before he could reject twin applications, were against the provisions of statute as



the action of rejection suffered from sufficiency of reasonable opportunity to the appellant to negate the adverse observation or dissatisfaction over compliance etc. For the reasons both the impugned orders passed since deprived the appellant society from providing reasonable opportunity therefore in our considered view deserves to be set-aside for their remand to the Ld. CIT(E) for de-nova adjudication accordance with law after according not less than two effective opportunities in each case, *ergo* ordered accordingly.

14. In result, the twin appeals stands partly allowed for statistical purposes.

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

**-S/d-
PAVAN KUMAR GADALE
JUDICIAL MEMBER**

**-S/d-
G. D. PADMAHALI
ACCOUNTANT MEMBER**

Panaji/Dt: 17th December, 2025.

Copy of the Order forwarded to :

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| 1. The Appellant. | 2. The Respondent. | 3. The AO Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Goa | 6. Guard File |

By Order,
Sr. Private Secretary / AR ITAT, Panaji.