

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

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.3328 & 3331/Del/2025

Swavalamban Avan Swabhimaan Foundation RZ-54/5A, Gali No. 4, Raj Nagar-2 Palam Colony, New Delhi- 110077 PAN No.ABETS8469G	Vs.	Commissioner of Income (E) Delhi
Appellant		Respondent

Assessee by	Ms. Prem Lata Bansal, Sr. Advocate Sh. Shivang Bansal, Advocate
Revenue by	Ms. Amisha S. Gupt, CIT (DR)

Date of Hearing	20.11.2025
Date of Pronouncement	14.01.2026

ORDER

PER C.N. PRASAD, JM,

These two appeals are filed by the assessee in rejecting registration u/s.12A and 80G of the Act by the Ld. CIT(E) order dated 10.03.2025.

2. These two appeals are filed with the delay of 11 days and the assessee has filed petition for condonation of delay alongwith affidavit explaining the reasons for the delay. Considering the rival submissions and the reasons explained

by the assessee in filing the appeals with the delay of 11 days we find that the assessee has reasonable cause in not presenting these appeals in time and accordingly delay of 11 days in filing these appeals is condoned and the appeals are admitted for hearing on merits.

3. The Ld. Counsel for the assessee referring to the order of rejection dated 10.03.2025 of the Ld. CIT(E), stated that registration was denied to the assessee u/s.12A on the ground that certain details were not furnished by the assessee, trust is not irrevocable and financial statement for the F.Y.2022-23 is unsigned and unaudited. The Ld. Counsel for the assessee referring to page-18 of the paper book submitted that in the event of dissolution of Trust, the assets of the trust shall be utilized for the fulfillment of the acts, aims and objectives of the trust up to finish or will transfer the rest of assets/fund to an organization working for the similar aims and objectives.

4. The Ld. Counsel for the assessee referring to page-35 of the paper book submitted that the assessee furnished various details before the Ld. CIT(E), also a declaration was filed that no part of its income of the trust/assessee directly or indirectly shall be used for the benefit of any person specified in section 13(1)(c) of the Act and no part of the income or property of the trust was ever used or applied for the benefit of any persons specified in section 13(1)(c) of the Income Tax Act.

5. The Ld. Counsel for the assessee further submitted that as a matter of fact the assessee has furnished audited

accounts before the Ld. CIT(E) which were not considered and overlooked while rejecting the registration.

6. The Ld. Counsel also made detailed submissions as under :-

01. That the instant appeal has been filed by the Foundation against the order-dated 10.03.25 passed by Ld. CIT(E) New Delhi u/s 12AB(1)(b)(ii)(B) of the income Tax Act whereby Ld. CIT(E) has rejected the application filed by the appellant seeking registration u/s 12A(1)(ac) (iii) of the Income Tax Act and has also cancelled the provisional registration granted to the appellant vide order-dated 04.10.2022 having unique Registration No. ABETS8469GE20221 issued for the period from AY 2023-24 to AY 2025-26

02. The appellant further submits that the present written submissions have been prepared in respect of appeal filed against rejection of registration u/s 12AB of the Income Tax Act. However, the appellant also faces a parallel and identical rejection u/s 80G of the Act by the same authority, based on substantially similar facts, reasoning, and legal grounds. It is, therefore, most respectfully prayed that these submissions may also be treated as applicable, mutatis mutandis to the appeal filed against the rejection u/s 80G of the Act bearing ITA No.3331/Del/2025 filed on 20.05.2025. The appellant craves leave of the Hon'ble Tribunal to adopt and rely upon these submissions in the said connected matter as well, in the interest of judicial economy and to avoid repetition.

03. That the facts leading to filing the present appeal are briefly stated as under:-

FACTS

01. That the appellant is a Charitable Trust, constituted vide Trust Deed dates 02.09.2022

The true copy of the Trust Deed is enclosed herewith as Annexure-"A".

02. That the Trust was granted a provisional registration vide order dated 04.10.2022 having unique Registration

No. ABETS8469GE20221 issued for the period from AY 2023-24 to AY 2025-26.

The true copy of provisional registration dated 04.10.2022 is enclosed herewith as Annexure-"B".

03. As per the provisions of section 12A(1) of the Act, the benefit of section 11 & 12 is not available to the assessee unless the assessee is registered u/s 12AA of the Act.

04. Sub-clause (ac) is inserted in section 12A(1) of the Act by the Taxation & Other Laws (Relaxation & Amendment of Certain Provisions) Act 2020 w.e.f. 01.04.2021, according to which, even if the Trust is registered u/s 12AA of the Act then also, where the Trust or Institution has been provisionally registered u/s 12AB of the Act, the Trust has to apply for registration atleast 06 months prior to expiry of period of the provisional registration or within 06 months of commencement of its activities, whichever is earlier.

05. Accordingly, the present appellant filed an application in Form No. 10AB seeking registration u/s 12A(1)(ac) (iii) of the Act.

The true copy of this application in Form No. 10AB is enclosed herewith as

Annexure-"C".

06. That pursuance to this application, the respondent issued one notice-date 15.10.2024, seeking certain information from the appellant.

The true copy of this notice-dated 15.10.2024 is enclosed herewith as Annexure-"D"

07. Appellant filed a detailed reply to this notice on 04.03.2025, enclosing all the relevant documents as required by the respondent. In the notice-dated 15.10.2024, the respondent had pointed out certain discrepancies, which had been removed by the appellant,

a) giving an undertaking that there will be no infringement of first proviso to section 2(15) of the Act,

b) making a declaration that no part of the income of the Foundation enures or used directly or indirectly for the benefit of any person specified in section 13(1)(c) of the Act,

c) confirming that none of the objects of Foundation is in the nature of trade/business/commerce and

d) also giving a certificate that all the requirements of law have been complied with which are essential for the purpose of achieving the objects of the Foundation.

The true copy of this reply-dated 04.03.2025 is enclosed herewith as **Annexure-"E"**

08. Despite the same, the Ld. CIT(E) rejected the application filed by the appellant seeking registration on the ground that some discrepancies are noted in the documents filed by the appellant which are

- a) the trust is not irrevocable and
- b) financial statement for FY 2022-23 are unsigned and un-audited

Ld. CIT(E) also cancelled the provisional registration granted vide order-dated 04.10.2022 having unique registration no. ABETS8469GE20221 issued for the period from AY 2023-24 to AY 2025-26.

It is against this order that the present appeal is filed by the appellant.

GROUND-WISE SUBMISSIONS

The appellant has challenged the order on various grounds, however, it is submitted that all the grounds revolve around one basic ground ie.

"the Ld. CIT(E) has erred in rejecting the application filed by the appellant seeking registration u/s 12AB of the Act and also canceling the provisional registration granted vide order-dated 04.10.2022 for the period from AY 2023-24 to AY 2025-26, on wrong and untenable grounds".

SUBMISSIONS

01. That the procedure for registration is laid down in section 12AB of the Act which has been inserted by the Taxation & Other Laws (Regulations & Amendment of Certain Provisions) Act 2020 w.e.f. 01.04.2021. The relevant part of the section necessary for deciding the present appeal is as under:

"Procedure for fresh registration"

12AB(1) the Pr. Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall, -

(a).....

(b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) or item (B) of sub-clause (vi) of the said clause, -

(i) call for such documents or information from the trust or Institution or make such inquiries as he things necessary in order to satisfy himself about -

*(A) the genuineness of activities of the trust or Institution;
and*

*(B) the compliance of such requirements of any other law
for the time being in force by the trust or Institution as are
material for the purpose of achieving its objects;*

*(ii) after satisfying himself about the objects of the Trust or
Institution and the genuineness of its activities under item
(A) and compliance of the requirements under item (B), of
sub-clause (i), -*

*(A) pass an order in writing registering the trust or
Institution for a period of five years; or*

(B) if he is not so satisfied, pass an order in writing -

*(i) in a case referred to in sub-clause (ii) or sub-clause (iii) or
sub-clause (v) of clause (ac) of sub-section (1) of section
12A rejecting such application and also canceling its
registration;*

*(ii) in a case referred to in sub-clause (iv) or in item (B) of
sub-clause (vi) of sub-section (1) of section 12A, rejecting
such application,*

after affording a reasonable opportunity of being heard;

(c)

and send a copy of such order to the trust or Institution.

*(4) Where registration or provisional registration of a trust
or an Institution has been granted under clause (a) or
clause (b) or clause (c) of sub-section (1) or clause (b) of
sub-section (1) of section 12AA, as the case may be, and
subsequently, -*

*a) the Principal Commissioner or Commissioner has noticed
occurrence of one or more specified violations during any
previous year; or*

*b) the Principal Commissioner or Commissioner has
received reference from the Assessing Officer under the
second proviso to sub. section (3) of section 143 for any
previous year, or*

*c) such case has been selected in accordance with the risk
management strategy, formulated by the Board from time
to time, for any previous year,*

the Principal Commissioner or Commissioner shall, -

*i) call for such documents or information from the trust or
Institution, or make such inquiry as he thinks necessary in
order to satisfy himself about the occurrence or otherwise
of any specified violation;*

ii) pass an order in writing, canceling the registration of such trust or Institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

iii) pass an order in writing, refusing to cancel the registration of such trust or Institution, if he is not satisfied about the occurrence of one or more specified violations;

iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such trust or Institution.

02. It is an admitted fact that the appellant had made an application u/s 12A(1)(ac) (iii) of the Act and therefore, provisions of section 12AB are applicable.

03. That from perusal of section 12AB of the Act, it would be seen that at the time of grant of registration, the PCIT / CIT has to satisfy himself about the object of the trust or Institution and the genuineness of its activities as well as compliance of requirements of any other law for the time being in force by the Trust or Institution as are material for the purpose of achieving its objects and not beyond that.

If the object of the trust or Institution are charitable in nature u/s 2(15) of the Act then the registration needs to be granted. The threshold condition is to be tested with the objects set out in the object clause of the Institution. In the instant case, it cannot be denied that the objects of the foundation are charitable in nature. It is only for this reason that the trust was granted a provisional registration vide order-dated 04.10.2022. Moreover, objects of the foundation have not been doubted while rejecting the application. In so far as activities are concerned, the foundation is in the initial stage. It was constituted only on 02.09.2022

As per the explanation given by the appellant to the Ld. CIT(E), the nature of activities projected by the foundation were in the four core areas - education, health, environment and community development. Since the foundation was constituted on 02.09.2022, it was in the primary stage at the time of making application seeking registration. From the perusal of audited Balance Sheet and audited Income & Expenditure A/c for the year ending 31.03.2023 and 31.03.2024, it is evident that assessee had carried out small charitable activities. Donations in kind, received by the appellant, were distributed to the poor people as it is. Small programmes were made for community development. Genuineness of these activities could not even be suspected much less adversely commented upon.

While passing the order, Ld. CIT(E) has not commended upon the objects as well as genuineness of the activities of the foundation, meaning thereby that he was satisfied with the objects as well as genuineness of activities of the foundation.

04. The only ground raised by Ld. CIT(E) for rejecting the application is that the trust is not irrevocable and the financial statement for FY 2022-23 is unsigned and un-audited.

In so far as irrevocability of the trust is concerned, CIT(E), during the proceeding itself, could have pointed out to the appellant such discrepancy so as to include the said clause in the Trust Deed like any other disclosure or certificate on undertaking required by him.

In so far as financial statement for FY 2022-23 are concerned. Ld. CIT(E) has ignored the facts on record. Appellant had already maintained its books of account for FY 2022-23 (which was the first year of the foundation) and were duly got audited on 31.10.2023 in within the prescribed time by the auditor. The Audit Report was duly filed by the appellant alongwith the return of income which was filed on 30.11.2023 le much before the cancellation order passed by Ld. CIT(E) It is submitted for your kind perusal that the said audit report was digitally signed by the auditor and therefore, there was no need to sign it physically.

True copy of audit report, audited financial statement and the copy of return reflecting filing of audit report alongwith return for AY 2023-24 are enclosed herewith as Annexure-"F"

05. It is a procedure prescribed under the law that while granting / rejecting. registration, Ld. CIT(E) call for the report from the assessing authorities. It is presumed that such report had also been called by Ld. CIT(E) in the present case. The audited financial statements were already filed by the appellant, while filing the return, before CPC and the assessing authorities had approached to the said return. the Ld. CIT(E) has ignored such audit report filed alongwith return, which was very much on record.

Thus both the grounds on the basis of which the application seeking registration is rejected by Ld. CIT(E) are not tenable and therefore, such order is required to be set aside in the interest of justice and the direction be given to the CIT(E) to grant registration in the interest of justice.

06. It is submitted that the Hon'ble Supreme Court in the case of American Hotel Lodging Association Educational Institute vs CBDT & Ors (301 ITR 86), in context of section 10(23C) had held that, at the stage of approval, what is

require be seen is the nature and genuineness of the activities of the appellant Instituti is submitted that at the stage of determining the genuineness of the activities, w to be seen is, whether the objects of the Institution are charitable within the me of section 2(15) of the Act. It is undisputed that object of the foundati charitable in nature and activities fall within the ambit of such object clause and therefore, are genuine. The financial for AY 2023-24 and 2024-25 clearly show that the activities carried out by the appellant falls within the four corners of the object clause. Hence, the registration sought by the appellant could not have been denied nor the provisional registration could have been cancelled.

07. The appellant is relying on the following judgements wherein it has been held that at the time of grant of registration, the threshold condition namely the genuineness of the activities is to be tested with the object clause of the Institution. It has been held that if the object of the Trust or Institution is charitable within the meaning of section 2(15) of the Act, it is entitled to grant of registration u/s 12A of the Act

a) CIT vs BKK Memorial Trust 213 Taxman 1 (P&H)

b) DIT vs Foundation of Ophthalmic & Optometry Research Education Centre 355 ITR 361 (Del)

c) DIT(E) vs Meenakshi Amma Endowment Trust 354 ITR 219 (Kar)

d) M/s Great Asian Institute of Management & Technology vs DCIT(E) ITA No.5311/Del/2012 dated 21/12/2012

In the present case, Ld. CIT(E) was already satisfied with the object clause and with the genuinity of the activities. He was also satisfied that the Foundation had complied with the requirement of any other law for the time being in force as the application has not been rejected on these grounds but on the basis of some other untenable grounds.

08. It is submitted that the casual findings and the casual observations of the Ld. CIT(E) to reject the application are not germane from the provisions of law. As per express provisions of the statute, application seeking registration could not have been rejected on the grounds which are made the basis for rejecting the application when the financial statements for FY 2022-23 were duly audited and were already record, even before filing application seeking

registration. The irrevocability of trust could have been included by the appellant in the Trust Deed on pointing on pointing out by CIT(E) but the same could not have been the ground for rejecting the application seeking registration.

In view of above, it is humbly submitted that the Ld. CIT(E) be directed to grant registration to the appellant u/s.12AB(1) and also revoke the cancellation of provisional registration in the interest of justice.”

7. Heard rival submissions perused the materials placed before us. In view of the detailed submission and the material placed before us we feel it appropriate to restore this issue to the file of the Ld. CIT(E) for reconsideration of the applications filed by the assessee for registration u/s.12A as well as 80G of the Act. Thus, both the appeals are restored to the file of the Ld.CIT(E) who shall pass orders afresh after hearing the assessee.

8. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 14.01.2026.

SD/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated:14.01.2026

*NCH, Sr.P.O.**

Copy forwarded to:

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

SD/-

[C.N. PRASAD]
JUDICIAL MEMBER

Asst. Registrar,
ITAT, New Delhi