

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.887 & 890/Ind/2025

Balaji Gau Sanrakshan Sansthan, Ward No.4 Arihant Vihar Colony, Vidisha	<u>बनाम/</u> Vs.	CIT (Exemption) Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAIAB2844C		
Assessee by	Shri Apurva Mehta & Shri Rajesh Mehta, ARs	
Revenue by	Shri Anup Singh, CIT-DR	
Date of Hearing	23.12.2025	
Date of Pronouncement	13.01.2026	

आदेश / ORDER

Per B.M. Biyani, A.M.:

The captioned two (2) appeals, *first* being ITA No. 887/Ind/2025 relating to registration u/s 12AB and *second* being ITA No. 890/Ind/2025 relating to approval u/s 80G, are filed by assessee against two (2) separate orders bearing DIN: ITBA/EXM/F/EXM45/2025-26/1080623801(1) and ITBA/EXM/F/EXM45/2025-26/1080623885(1) respectively, both dated 11.09.2025 and passed by learned Commissioner of Income-Tax (Exemption), Bhopal ["CIT(E)"] by which the assessee's applications for grant

of final registration u/s 12AB & final approval u/s 80G of Income-tax Act, 1961 ["the act"] have been rejected. The assessee has raised the grounds as mentioned in respective Appeal Memos (Form No. 36).

2. Since these appeals relate to the same assessee and are interconnected, they were heard together and are being decided by this common order. We would first take up appeal relating to registration u/s 12AB and thereafter appeal relating to approval u/s 80G.

ITA No. 887/Ind/2025 - relating to registration u/s 12AB:

3. At first, we re-produce the impugned order passed by Ld. CIT(A):

"Annexure (mentioned in row-9 above)

The assessee has applied in Form 10AB for registration u/s 12A(1)(ac)(vi)-ITEM(B) & 80G(5)(iv)(B) of the Act. Consequently, opportunity letter was issued to the assessee and reply has been submitted by the assessee during the proceedings.

It is important to mention here the relevant part of section 12A(1) (ac) (vi)(B) of the Act applicable from 01.10.2023 which is as under-

(vi) in any other case, where activities of the trust or institution have

(B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,

It is clear that the section 12A(1)(ac) (vi) (B) is applicable only for those assessee whose activities are commenced and no exemption u/s 11/12 or 10(23C)(iv)/(v)/(vi)(via) has ever been claimed before filling of application in Form 10AB. On perusal of the reply furnished by the assessee and data available on record, it is noticed that the assessee has already claimed exemption in ITR for earlier years before filling the

present application. Hence, the assessee is not eligible to file application under section 12A(1)(ac) (vi) (B) of the Act.

Considering the facts of the case and reasons mentioned above, a show cause notice was issued to the assessee on 28.08.2025 stating that why the application in Form 10AB for registration/approval u/s 12A(1)(ac)(vi) - ITEM(B) of the Act should not be rejected on technical ground. In compliance, the assessee neither submitted any written reply nor requested for the adjournment.

In view of the above mentioned facts and circumstances of the case, the application filed in Form 10AB for the approval u/s 12AB of the Income Tax Act is hereby rejected."

4. Ld. AR for assessee instantly agrees to the observation made by Ld. CIT(E) that an incorrect/inapplicable clause 12A(1)(ac)(vi)(B) was selected in the application filed by assessee instead of correct/applicable clause 12A(1)(ac)(ii). He, however, submits that it was a technical mistake which has happened due to a confusion/improper understanding of the new provisions of granting registrations recently introduced by Govt. through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 w.e.f. 01.04.2021 [**"TOLA"**]. He also pointed out that the Ld. CIT(E) has finally rejected assessee's application for lack of submission by assessee in response to the show cause notice issued in this regard but in the interest of justice and for a meritorious disposal of assessee's application, the present case may be restored at the level of CIT(E) with suitable direction for adjudication afresh. He acknowledged that the assessee shall make a proper and adequate representation before CIT(E).

5. Ld. DR for revenue opposed the submission of assessee. He submitted that it is the assessee who has selected an incorrect/inapplicable clause in the application filed and also remained non-responsive to the show-cause notice issued by CIT(E). Therefore, in the situation, the CIT(E) has passed an appropriate order and there is no infirmity in impugned order. He requested to uphold the impugned order.

6. We have carefully considered the rival submissions of both sides and perused the impugned order in the light of the provisions of section 12A of the Act. We note that the Government has introduced a new regime for grant of registration u/s 12A by insertion of section 12A(1)(ac) through the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [**"TOLA"**], with effect from 01.04.2021. Under this regime, different kinds of registrations such as provisional registration, regular or final registration, re-registration and renewal of registration have been prescribed for different factual situations, each governed by distinct clauses of section 12A(1)(ac). Owing to the introduction of this entirely new electronic system and multiplicity of clauses catering to different situations, instances of inadvertent or incorrect selection of clauses have occurred across the country. In this regard, we observe that in the undermentioned cases, the Benches of ITAT have examined situations involving wrong selection of analogous clauses also prescribed through TOLA in section 80G and have provided appropriate relief to the assessees by adopting a pragmatic approach:

- (a) **ITAT Mumbai in Rambha Charitable Trust, Mumbai Vs. Commissioner of Income-tax, ITAT No. 5111/Mum/2024, order dated 29.11.2024:**

*"6. The assessee in terms of the above provisions first applied for a provisional approval under sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G within and subsequently (refer clause 2 in Form 10A) and was given the provisional registration up to AY 2025-26 on 30.11.2022. In the application for final approval in Form 10AB, it noticed that the assessee has once again mentioned same section i.e. sub-clause (B) of clause (iv) of first proviso to sub-section (5) of section 80G whereas the correct section code under which the assessee ought to have sought approval is clause (iii) of first proviso to sub-section (5) of section 80G. We also noticed that the CIT(E) has treated the application as one filed under sub-clause (B) of clause (iv) of first proviso to sub-section (5) of section 80G and accordingly rejected the application for not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB. From the perusal of forms filed and the facts of the case, in our considered view, there is merit in claim of the Ld. AR that the assessee has selected the wrong section code inadvertently while filing the application for final registration in Form 10AB. Further, we notice that the assessee did not have the opportunity of being heard before CIT(E) due to incorrect course of action advised, and that otherwise the assessee might have explained the facts before the CIT(E) to avoid rejection. In view of these discussions and respectfully following the above decision of the Kolkata Bench in the case of **North Eastern Social Research Centre (supra)**, we remit the issue back to CIT(E) with a direction to grant final approval to the assessee under Clause (iii) to First Proviso to section 80G(5) of the Act, if the assessee is otherwise found eligible. We also direct the CIT(E) to decide the application of the assessee for final approval as quickly as possible expiry of the provisional approval granted in order to enable the assessee to have the benefit of section 80G without any break. It is ordered accordingly.*

7. In result the appeal of the assessee is allowed for statistical purposes."

- (b) **ITAT Kolkata in North Eastern Social Research Centre Vs. CIT(Exemption), Kolkata, ITA No. 741/Kol/2024, order dated 09.07.2024:**

"6. The facts and issues involved in the case in hand being identical to that of the above referred to cases and in view of the findings given by the Coordinate Benches of the Tribunal, the appeal of the assessee is allowed accordingly and the Id. CIT(Exemption) is directed to grant final approval to the assessee under Clause (iii) to First Proviso to section 80G(5) of the Act, if the

assessee is otherwise found eligible. It is directed that the Id. CIT(Exemption) will decide the application of the assessee for final approval as expeditiously as possible but not later than two months from the receipt of this order. It is further directed that, if the assessee is granted final approval by the Id. CIT(Exemption) then, the benefit of approval u/s 80G of the Act, if it was available to the assessee prior to the Amendment brought vide Amending Act of 2020, will be deemed to have been continued without any break. The assessee will not be deprived of the benefit during the time period falling between 31/03/2021 and the date of grant of provisional approval under clause (iv) i.e., 28/06/2022, due to technical errors occurred in making the application under the relevant provisions of the Act because of the confusion and misunderstanding on part of the assessee as well as on part of the Id. CIT(Exemption) in properly interpreting the relevant provisions.

7. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes."

7. Respectfully following the same tune and approach as adopted by ITAT Benches, we are inclined to remand the present matter to the file of CIT(E) for adjudication afresh after hearing assessee. We direct the Ld. CIT(E) to grant final registration to assessee under correct/applicable clause of section 12A(1)(ac) r.w.s. 12AB, if the assessee is otherwise found eligible.

ITA No. 890/Ind/2025 - relating to approval u/s 80G:

8. The rejection of assessee's application for final approval u/s 80G is consequent upon rejection of assessee's application for final registration u/s 12AB. Since we have already remanded, in preceding para, the matter of final registration u/s 12AB to CIT(E) for adjudication afresh, consequently this matter for grant of final approval u/s 80G is also remanded to CIT(E) for adjudication afresh.

9. Resultantly, these appeals are allowed for statistical purpose.

Order pronounced by putting up on notice board
as per Rule 34 of ITAT Rules, 1963 on 13/01/2026

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 13/01/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore