

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “DB” BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

[THROUGH VIRTUAL MODE]

ITA No.211/DDN/2025

[Assessment Year : 2023-24]

Dr. Virendra Swaroop Educational Foundation 15/96, Civil Lines, Kanpur Uttar Pradesh-208001 PAN-AAAJD0224D	vs	ACIT Central Circle Dehradun
APPELLANT		RESPONDENT
Assessee by	Shri Salil Kapoor, Adv. Shri Rajiv Sahni, CA Shri Sumit Lal Chandanim, Adv. Shri Shivam Yadav, Adv. & Ms. Ananya Kapoor, Adv.	
Revenue by	Ms. Poonam Sharma, CIT DR	
Date of Hearing	11.12.2025	
Date of Pronouncement	16.01.2026	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the assessee against the order dated 16.09.2025 by Ld. Pr. Commissioner of Income Tax (Central), Kanpur [“PCIT”] passed u/s 12(AB)(4)(ii) of the Income Tax Act, 1961[“the Act”] cancelling the registration granted u/s 12A of the Act from Assessment Year 2023-24 and onwards.

2. Brief facts of the case are that a search and seizure action u/s 132 of the Act was conducted on 24.11.2022 in the case of Mehta Group and connected associates, Dehradun engaged in the business

of real estate and leasing business activities, wherein several incriminating materials were found and seized. It is observed that some of these papers related to assessee. The assessee trust is based in Kanpur and Dehradun, oversees the operations and management of schools and colleges located and operated from Kanpur and adjoining areas and other parts of Uttar Pradesh and Uttarakhand. The trust had got registration u/s 12A(1)(ac)(i) of the Act vide order dated 24.-09.2021 with various conditions. The assessee trust had claimed exemption of income of INR 20,01,52,552/- u/s 11 of the Act for the year under appeal. The income tax return was filed on 27.10.2023 by the assessee trust, declaring income of INR 2,25,22,633/-. Based on the information supplied by the Ao, the ld. PCIT, Central, Kanpur initiated the proceedings for cancellation of registration 12A granted to it and after considering the submissions made, the ld. PCIT concluded that the assessee trust is extensively involved in the business of real estate, land transactions and leasing business during the year under consideration. Since these activities are neither the objects of the assessee trust for which it was formed and got exemptions u/s 11, 12 and 13 of the Act nor income from such profits and gains of the real estate business of sale, purchase and leasing activities can be termed as incidental to the attainment of trust's objectives and are in the nature of commercial activities carried out for purposes other than for the objects of the trust. Therefore, vide impugned order, ld. PCIT has cancelled the registration granted u/s 12A/12AA or 12AB of the Act, is hereby, cancelled for the previous year relevant to A.Y. 2023-24 as led down in sub-clause (ii) of sec. 12AB(4) of the Act.

3. Aggrieved by the order of Ld. Pr. CIT, assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That on the facts and in the circumstances of the case and in law, the order dated 16.09.2025 passed by the Principal Commissioner of Income Tax, Central, Kanpur (‘PCIT’) under Section 12AB(4)(ii) of the Act (‘impugned order’), cancelling the registration granted to the Appellant trust, is illegal, bad in law and without jurisdiction and barred by time limitation.*
2. *That on the facts and circumstances of the case and in law, the order passed by PCIT under section 12AB(4)(ii) of the Act cancelling the registration of the Appellant trust is illegal, bad in law and without jurisdiction.*
3. *That the reference made by the Assessing Officer (‘AO’) under the second proviso to Section 143(3) read with Section 12AB(4)(b) is illegal, without jurisdiction, and contrary to the mandate of the Act. Thus the impugned order is liable to be quashed.*
4. *That without prejudice, the order passed under Section 127 of the Act is also illegal, bad in law and without jurisdiction and as such the order passed by the PCIT under Section 12AB of the Act is also illegal, bad in law and without jurisdiction and deserves to be quashed.*
5. *That the impugned order passed by the PCIT under Section 12AB(4) (ii) of the Act is without jurisdiction in the absence of a valid order under Section 127 of the Act, and is therefore null and void.*
6. *Without prejudice, the order under Section 127 of the Act does not apply to the jurisdiction being held by CIT(Exemption) and as such no valid jurisdiction was assumed by PCIT(Central). Hence, impugned order is illegal, bad in law, without jurisdiction and liable to be quashed.*
7. *That the PCIT has erred in holding that the activities of the appellant are not being carried out in accordance with the objects of the trust, despite extensive documentary evidence filed during the course of proceedings. The observation made by the PCIT are based on mere surmises and conjectures.*
8. *Without prejudice to the above, the order passed by PCIT, on the basis of reference made by AO under the second proviso to the provisions of Section 143(3) of the Act is void ab initio and bad in*

law, as no satisfaction note has been prepared by the AO before making a reference under aforesaid proviso to PCIT.

- 9. That the impugned order fails to satisfy the threshold of 'specified violation' in instant case as defined under the Explanation to Section 12AB(4) of the Act, inasmuch as no cogent material has been brought on record to show non-genuineness of activities or deviation from the stated charitable objects of the trust.*
- 10. That in view of the facts and circumstances of the case and in law, the PCIT has erred in law and on facts, while ignoring the fact that the investment made by the Appellant trust is towards the objectives of the trust and it is not for any business venture.*
- 11. That without prejudice, the PCIT has wrongly and illegally ignored the fact that the advance given towards the development of property is after deduction of TDS and the same is adjusted towards the payment for said purpose and the fact that other party had noted the same as unsecured loan in his books of accounts is immaterial.*
- 12. That the PCIT, had erred on facts and in law, in holding that there is cash transaction and adjustment towards the payment of car, whereas, there is no such transaction undertaken by the Appellant and the allegation are baseless and incorrect.*
- 13. That without prejudice, the PCIT, has ignored the fact that on the basis of the document relied on by the PCIT, no such transaction of cash and adjustment of cash has been undertaken in the relevant AY i.e., 2023-24 for which the impugned order is passed for AY 2023-24.*
- 14. That in view of the facts and circumstances of the case and in law, the cancellation of registration on the basis of alleged incriminating material found during search on some other person is wrong, illegal and bad in law. The finding of misutilization/diversion of funds is unjustified, totally incorrect and contrary to the material available on record. The observation made by surmises and conjectures.*
- 15. That the explanations given, evidence produced and material placed and made available on record have not been properly considered and judicially interpreted and the same does not justify the cancellation of registration under the provision of Act.*
- 16. That the evidence filed and materials available on record have not been properly construed and judiciously interpreted, hence the*

cancellation of registration under the provision of Act is uncalled for.

That the Appellant trust craves leave to add, amend, alter and/or delete any of the above grounds of appeal at or before the time of hearing.”

4. With respect to **Grounds of appeal No. 1 to 6**, ld. AR for the assessee argued that order for withdrawing the exemption u/s 12A passed by PCIT, Central, Kanpur though the jurisdiction over the assessee was with PCIT, Exemption, Lucknow. He submits that in terms of order passed u/s 127(2)(a) of the Act dated 01.02.2024, jurisdiction over the assessee was transferred from one Assessing Officer to another Assessing Officer for the purpose of completion of assessments. Thus, this order could be treated as transfer of jurisdiction from PCIT (Exemption), Lucknow to PCIT, Central, Kanpur as the jurisdiction over the assessee with PCIT (Exemption), Lucknow was given in terms of CBDT's order which has not been changed later.

5. Ld.AR for the assessee filed a written synopsis in support of his claim. For ready-reference, relevant contents of the synopsis is reproduced as under:-

1. *“The Assessee, Dr. Virendra Swaroop Educational Foundation, was registered under Section 12AA read with Section 12A of the Income Tax Act, 1961 ('the Act') vide order dated 01.04.1998 passed by Commissioner of Income Tax, Dehradun. Thereafter, the registration was granted on 24.09.2021 under Section 12A of the Act up to Assessment Year (AY") 2026-27.*
2. *A show cause on 19.01.2024 was given to the Assessee by CIT(E), Lucknow, Mrt to transfer the case from the present jurisdictional assessing officer (AO), Ghaziabad to assessing office of Central Charge. Thereafter, the order under Section 127(2)(a) of the Act on*

01.02.2024 was passed by CIT(Exemption), Lucknow, Mrt. transferring the case to AO from Exemption Circle, Ghaziabad to DCIT/ACIT, Central Circle, Dehradun.

3. Thereafter, impugned order under Section 12(AB)(4)(ii) of the Act was passed on 16.09.2025 by PCIT (Central), Kanpur and the registration granted for Assessment Year ('AY') 2023-24 is cancelled. The legal submissions raised by the Assessee are as follows:
4. The Central Board Direct Taxes (CBDT) issued a circular No. 53 of 2014 dated 22.10.2014 (enclosed), in which the jurisdiction of the cases where the person is claiming benefits of provisions of Section 11 and 12 of the Act in the instant case the same is under the charge of CIT(Exemption), Lucknow. CIT(Exemption), Lucknow under whose charge the Assessee was assessed do not have the power or jurisdiction to transfer his own jurisdiction to PCIT, Central, Kanpur. This fact is duly noted by the Hon'ble Tribunal and has quashed the order passed by PCIT, Central, cancelling the registration under Section 12A rws 12AA & 12AB of the Act on identical facts. The reliance is placed on the following case laws:
 - a. M/s Sushila Devi Centre for Professional Studies and Research v. PCIT (Central), Kanpur, ITA No.131/DDN/2025
 - b. Aggarwal Vidya Pracharni Sabha v PCIT, Central Gurgaon. ITA No. 1308/DEL/2023
 - c. Pacific Academy of Higher Education and Research Society v PCTT, Central, ITA. No. 04/DEL/2020
 - d. Wholesale Cloth Merchant Association v PCIT, Central, ITA No. 688/JP/2019
 - e. Lakhmi Chand Charitable Society v. PCIT, Central, ITA No. 1803/DEL/2024
 - f. Hemkunt Foundations v. Principal Commissioner Income Tas, Central-1, New Delhi, ITA No. 631/DEL 2024
 - g. Lala Sher Singh Memorial Jeevan Vigyan Trust Society v. PCIT(Central), [2025] 175 taxmann.com 671 (Delhi Trib.) [16-06-2025]
 - h. Meenakshi Foundation v. PCIT, [2025] 175 taxmann.com 990 (Delhi-Trib.) (23-05-2025)
5. The order passed under Section 127(2)(a) of the Act dated 01.02.2024 is for the purpose of transferring the case to one assessing officer to another assessing officer. The said order also specifies that it is passed to transfer the case from one assessing officer to another assessing officer. It is not open to the PCIT, Central, Kanpur to assume jurisdiction on the basis of said order

passed under Section 127 of the Act. which has transferred the assessment from one assessing officer to another assessing officer. Hence, the PCIT, Central, Kanpur lacks the jurisdiction to pass the impugned order under Section 12(AB)(4)(ii) of the Act to cancel the registration granted by the CIT(Exemption), Lucknow who has the valid jurisdiction. The reliance is placed on the above-mentioned judgements.

6. *It is further submitted that the order under Section 127 dated 01.02.2024 merely transfers assessment files from one Assessing Officer to another. Section 127 falls under Chapter XIII dealing with assessment jurisdiction and does not, and cannot, enlarge or reallocate statutory powers vested in a particular Commissioner. The legislature has consciously bifurcated assessment functions and registration functions under separate Chapters. To permit the PCIT (Central) to rely on a Section 127 of the Act transfer order to usurp exemption powers would amount to a colorable exercise of power. The maxim Quando aliquid prohibetur ex directo, prohibetur et per obliquum squarely applies i.e., what cannot be done directly cannot be done indirectly.*
7. *The doctrine of institutional competence also deserves emphasis. Registration under Section 12A/12AA/12AB is an exercise involving consideration of charitable objects, genuineness of activities, and compliance with the statutory regime governing charitable institutions. This function, by design, is entrusted to the specialized authority of the CIT (Exemption). A Central charge officer, whose domain is search assessments and undisclosed income, is institutionally unsuited to adjudicate upon matters of charity law. To allow such an officer to cancel registration not only frustrate the statutory scheme but also undermines the specialized allocation envisaged by CBDT itself.*
8. *Without prejudice, it may also be submitted that the order under Section 127 of the Act passed on 01.02.2024 by CIT (Exemption) is without agreement of the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners and as such the order under Section 127 of the Act dated 01.02.2024 is not a valid order and has to be ignored. The reliance in this context can be placed on order passed by Hon'ble Supreme Court in the case of 'Noorul Islam Educational Trust v. CIT-1 & Ors SLP(C) No. 13968/2015 dated 21.10.2016. It is mandatory required that the order passed under Section 127(2) of the Act that the senior authority must be in agreement to the said transfer of assessing officer. The absence of disagreement doesn't meet the requirement of provisions of the Act. Hence, the order under Section 127 of the Act is illegal and bad in law.*

9. *The PCIT(Central), Kanpur while cancelling the registration vide order dated 16.09.2025 had referred to one order of ITAT dated 09.08.2024 passed in Stay Application No. 129/Del/2024 in the case of 'Legal Initiative for Forest and Environment (LIFE Trust)'. Without prejudice to the legality of the said order, it is humbly submitted that the assessee in that case had approached Hon'ble Delhi High Court vide W.P.(C) No. 16174/2024 against the said order of stay, the Hon'ble Delhi High Court vide order dated 10.12.2024 had held that the observation made in the said stay order are expression of only prima facie opinion and are not dispositive of the controversy in the main matter. It is further held that order rejecting any interim prayer are only expression of prima facie opinion. It is also submitted that Hon'ble Supreme Court in the case of 'State of Assam v. Barak Upatyaka D.U.Karmachari Sanstha, CIVIL APPEAL NO. 6492 of 2002 had held as follow:*

"10. A precedent is a judicial decision containing a principle, which forms an authoritative element termed as ratio decidendi. An interim order which does not finally and conclusively decide an issue cannot be a precedent. Any reasons assigned in support of such non-final interim order containing prima facie findings, are only tentative. Any interim directions issued on the basis of such prima facie findings are temporary arrangements to preserve the status quo till the matter is finally decided, to ensure that the matter does not become either infructuous or a fait accompli before the final hearing. The observations and directions in Kapil Hingorani (1) and (II) being interim directions based on tentative reasons, restricted to the peculiar facts of that case involving an extraordinary situation of human rights violation resulting in starvation deaths and suicides by reason of nonpayment of salaries to the employees of a large number of public sector undertakings for several years, have no value as precedents. The interim directions were also clearly in exercise of extraordinary power under Article 142 of the Constitution. It is not possible to read such tentative reasons, as final conclusions, as contended by the respondent. If those observations are taken to be a final decision, it may lead to every disadvantaged group or every citizen or every unemployed person, facing extreme hardship, approaching this Court or the High Court alleging human right violations and seeking a mandamus requiring the state, to provide him or them an allowance for meeting food, shelter, clothing, salary, medical treatment, and education, if not more. Surely that was not the intention of Kapila Hingorani (1) and (II)."

10. Hence, reliance of the PCIT on the interim order in respect of stay filed by the assessee in the case of 'Legal Initiative for Forest and Environment (LIFE Trust)' is misplaced and the same is liable to be ignored.

PRAYER

11. Without prejudice to the submissions/arguments on merits of the case, the order passed by PCIT, Central, Kanpur for ('AY') 2023-24 is liable to be quashed as the same lacks jurisdiction. In view of the above facts and circumstances and in law, it is humbly requested that the order under Section 12(AB)(4)(ii) of the Act passed on 16.09.2025 by PCIT (Central), Kanpur, may kindly be quashed.”

5.1 He placed reliance on the various judgments which are also part of the written submissions.

6. On the other hand, Ld. CIT DR for the Revenue vehemently supported the orders of the ld. PCIT withdrawing the exemption and submits that once the order u/s 127 was passed, the jurisdiction over the assessee was with PCIT, Central, Kanpur which has rightly passed the order dated 16.09.2025 cancelling the registration u/s 12A of the Act and which order deserves to be upheld. He further submits that the assessee was found engaged in the activities which are not incidental and necessary for the attainments of its objectives thus, the action of ld. PCIT in cancelling the registration is correct and he prayed accordingly.

7. Heard the contentions of both parties and perused the material available on record. In the instant case, assessee trust has been granted registration u/s 12A in terms of the order dated 24.09.2021. The assessee trust since inception, is engaged in charitable activity of imparting education by controlling and running various

educational institutions. As a result of search on 24.01.2022 in the case of Mehta Group, the case of the assessee was centralized with ACIT, Central Circle, Dehradun wherein during the course of assessment proceedings, the AO observed that assessee trust has made specific violation of clause (a) to (g) of section 12AB(iv) of the Act. Accordingly, Ld. PCIT, Central, Kanpur passed the order dated 16.09.2025 wherein registration granted u/s 12A//12AA/12BB was cancelled w.e.f. AY 2023-24 and onwards. It is seen that jurisdiction over the assessee was of PCIT(Exemption), Lucknow in terms of CBDT Instruction dated 22.10.2014 according to which all the cases fallen under the States of Uttar Pradesh and Uttarakhand, wherein all the cases of persons in the territorial area specified in column (4) claiming exemption under clauses (21), (22), (22A), (22B), (23), (23A), (23AAA), (23B), (23C), (23F), (23FA), (24), (46) and (47) of section 10. Section 11, section 12, section 13A and section 13B of the Income Tax Act, 1961 and assessed or assessable by an income tax authority at serial numbers 141 to 151 and 182 to 189 specified in the notification of Government of India bearing number S.O.2752 dated the 22nd October, 2014 with the CIT(Exemption), Lucknow. This notification is issued by CBDT in terms of section 120 sub-section (1) & (2) of the Act and thus this order cannot be override by PCIT while passing the order u./s 127(2) of the Act transferring the jurisdiction for assessment from one AO to another. The Co-ordinate Bench of ITAT, Dehradun in the case of ***M/s. Sushila Devi Centre for Professional Studies and Research vs PCIT (Central) in ITA No.131/DDN/2025*** dated ***17.10.2025*** has dealt with the identical issue wherein it is observed as under:-

7. *Heard both the parties and perused the materials available on record. The sole issue in the grounds of appeal No.1 to 7 of the assessee are with respect to the cancellation of the registration by the PCIT, Central, Kanpur without having jurisdiction and further the cancellation was made with retrospective effect. Before going further, we first examine the jurisdiction of an Officer as provided u/s 120 of the Act. As per section 120 sub-section (1) and (2) the Board may authorize any Income Tax authority to issue orders in writing for the exercise the powers and performance of the functions by all or any of the Income Tax Authorities who are subordinate to it. In the instant case, the Ld. PCIT by virtue of such power vested upon him u/s 127 of the Act, has transferred the jurisdiction over the assessee from the AO, Exemption Circle, Ghaziabad to DCIT/ACIT, Central Circle, Dehradun.*
8. *The CBDT in terms of the power given u/s 120(3) sub-section (1) and (2) in terms of the notification dated 22nd October, 2014 has notified the Commissioner of Income Tax to exercise the powers and perform all the functions in respect of cases or classes of cases falling in the territorial areas specified in the said notification. As per the aforesaid Notification at Serial No.11, the CIT(E), Headquarter at Lucknow has jurisdiction of the territorial area of State of UP and Uttarakhand over the cases or classes of cases comprising of all the cases of the persons in the territorial area claiming exemption in Clause (21), (22), (22A), 22B), (23), 23A), (23AAA), (23B), (23C), (23F), (23FA), (24), (46) and (47) of section 10, section 11, section 12, section 13A and section 13B of the Act and assessed or assessable by an Income-tax Authority at serial numbers 131 to 140 specified in the notification of Government of India bearing number S.O. 2752 dated 22nd October, 2014, the relevant notification is placed in paper book pages 142 to 145. The Board in terms of another Notification dated 22.10.2024 has notified the Chief Commissioner of Income Tax (Exemption), Delhi vested the powers u/s 120(1) & 120(2) over the cases vested with all the CIT(E) whose jurisdiction was notified vide Notification dt. 22.10.20214 at S.O. 2754(E).*
9. *Thus, the jurisdiction over the assessee for granting the registration u/s 12A of the Act cannot be transferred by the CIT(E), Lucknow u/s 127(2) of the Act which can only be transferred by the CBDT in terms of the power confined under sub-section (1) & (2) section 120 of the Act and the jurisdiction over the assessee cannot be assumed by the PCIT, Central, Kanpur to decide the application for registration u/s 12A filed by the assessee, though the jurisdiction to assess the assessee was transferred from the Circle, Exemption Ghaziabad to AC/DC, Central Circle, Dehradun. The jurisdiction*

transferred to the Central Circle- Dehradun was to complete the assessments due as a result of search carried for better and proper co-ordination of the cases which does not mean that the jurisdiction of the CIT(E) at Lucknow was transferred to PCIT, Central, Kanpur.

10. *The identical issue came up before the Co-ordinate Bench of the Tribunal in the case of Aggarwal Vidya Pracharni Sabha Vs. PCIT, Central Gurgaon wherein ITA No. 1308/Del/2023 vide order dated 08.01.2024 the Co-ordinate Bench has held as under:*

“14. Having considered the aforesaid, it comes up that the order of transfer u/s 127 dated 26.10.2020 is shown to be passed under sub-clause (a) to sub-section (2) of section 127 of the Act which gave powers to CIT(E) Chandigarh to pass order of transfer qua such ‘Assessing Officers’ who are subordinate to other the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. Thus when we consider the definition of “Assessing officer” u/s 2(7A) of the Act, certainly PCIT, Gurgaon, who has passed the impugned order is not an ‘assessing officer’, and order passed dated 26.10.2020, under sub-clause (a) to sub-section (2) of section 127 of the Act only referred to transfer of jurisdiction of ‘assessing officer’ subordinate to CIT(E) Chandigarh to DCIT, Central Circle-2, Faridabad DLC-CC-136-4 as assessing officer and not original jurisdiction of CIT(E) Chandigarh with regard to the subject matter as stands vested by order of CBDT dated 22/10/2014.

14.1 Further, what is material is that by the Notification dated 22.10.2014 the Board, exercising powers under sub-section (1) and sub-section (2) of section 120 vested powers to perform all the functions in respect of class of cases referred in the column No.5 of the Schedule of this Notification and had created a specific jurisdiction on territorial basis in regard to the provisions generally dealing with claim of exemptions u/ ss. 10,11,12, 13A and section 13B of the Act.

14.2 Thus as we refer to the Notification dated 22.10.2014, the clause (a) vested powers with Commissioners of Income-tax (Exemptions), for class or class of cases pertaining to section 10, section 11, section 12, section 13A and section 13B of the Act and clause (b), to issue orders in writing for the exercise of ‘their’ powers and perform all ‘their’ functions by Additional Commissioners of Income-tax or Joint

Commissioners of Income-tax and Tax Recovery Officers who are subordinate to them and that signifies that again this delegation of powers by CIT(E), Chandigarh could have been qua officers subordinate to CIT(E), Chandigarh only and not, in any way, gave powers to CIT(E), Chandigarh to pass an order u/s 127(2)(b) of the Act to transfer powers vested by Board to any other Tax Authority.

14.3 Next, as we refer to Section 12 AB and Rule 17A which have come into effect from 01.04.2021, and read it with the Circular no. 11 dated 3rd June 2022, it comes up that section 12AB(2) of the Act provides that the pending applications under clause (b) of sub-section (1) of section 12AA before the date on which section 12AB came into force shall be deemed to be applications made under sub-clause (4) of clause (ac) of sub-section (1) of section 12A on that date for grant of registration.

14.4 However, as far as provision of cancellation of the registration provided by sub-section (4) of section 12AA is concerned, sub-section (4) of section 12AB brings into place a completely new self-contained procedural code for conducting inquiry about 'specified violations', cancelling registration or refusing to cancel registration.

14.5 The Rule 17A, as clarified by Circular dated 3rd June 2022 provides that in addition to the 'specified violations', the power of cancellation has also been granted under sub-rule (5) of rule 17A and sub-rule (5) of rule 2C of the Income-tax Rules, 1962 to the Principal Commissioner or Commissioner authorised by the Board. The authorisation u/s 12AB or Rule 17A if have to be construed, by virtue of Board's Notification dated 22.10.2014, then we pointed out during the hearing, to ld. DR that this Notification dated 22.10.2014 does not mention specifically that the powers which can be exercised by ld. PCIT u/s 12AB(4) of the Act and which have come into effect from 01.04.2021 would also be exercised by virtue of this Notification dated 22.10.2014 or that further jurisdiction u/s 12AB of the Act could be transferred to other authorities as per this Notification. The query was left unsatisfied and no other Notification or Circular was brought to our notice.

15. Thus, at one end, in the absence of any specific reference of section 12AB in the Notification dated 22.10.2014 or there being subsequent authorisation by any Circular or

Notification of the Board, we conclude that at the time of passing the order u/s 127 of the Act on 26.10.2020, CIT(E), Chandigarh did not have powers to as such transfer his jurisdiction u/s 127(2)(a) of the Act, for the purpose of Section 12AB has come into effect from 01.04.2021. Accordingly, under no circumstance while passing order u/s 127 of the Act on 26.10.2020, CIT(E), Chandigarh could have transferred his powers u/s 12AB of the Act to any other authority.

- 15.1 *On the other hand, ld. PCIT, Gurgaon by virtue of the Explanation defining the scope of 'case' for the purpose of section 127, did not have power vested in him to cancel registration u/s 12AB(4). The 'case' refers to assessment initiated as consequence of search or consequential proceedings to such assessments only and cannot be extended to special powers of ld. CIT(E), Chandigarh. Thus, the assumption of jurisdiction on the basis of the order dated 26.10.2020 of CIT(E), Chandigarh is completely illegal and that makes the whole exercise of ld. PCIT passing the impugned order liable to be quashed.*
16. *Furthermore, if examine the legality of the procedure followed by ld.PCIT, Gurgaon to pass order u/s 12AB(4), by recourse to exercise of powers by virtue of clause (a) of sub-section (4) of section 12AB, it comes up that ld.PCIT, Gurgaon admits that a 'proposal' for cancellation of the registration of the assessee trust granted u/s 12AA of the Act was forwarded vide letter dated 23.08.2022 by the AO through the Range head. In this context, if we refer to second proviso to sub-section (3) of section 143 of the Act, the same provides that if the AO is satisfied about any specified violation provided in sub-section (4) of section 12AB, the AO shall send a 'reference' to the PCIT or Commissioner to withdraw the approval or registration, as the case may be, and clause (b) to this proviso provides that no order making an assessment of total income or loss of such institution or trust shall be made without giving effect to the order passed by PCIT or Commissioner. In the case in hand, the ld. PCIT, Gurgaon has reproduced the part of letter dated 23.08.2022 which has observed about a 'proposal' of cancellation of registration u/s 12AB(4) and based upon the same, the ld. PCIT had initiated action. The assessment by said assessing officer was completed in September, 2021, so, before the letter dated 23.08.2022 the assessment proceedings stood culminated. Thus, there was*

no occasion for concerned AO to invoke 'reference' powers under second proviso to sub-section (3) of section 143 of the Act. To that extent Id. PCIT observations are correct.

- 16.1 However, what is relevant here is that in any case the 'reference' by jurisdictional AO was to be made not to the PCIT or Commissioner, to whom this AO was subordinate but one authorised by board for the purpose of Section 12AB. The one who could grant or cancel the registration as per amended provisions which is not PCIT, Gurgaon, but, would be CIT(E), Chandigarh. Thus assumption of jurisdiction for cancellation of registration u/s 12AB(4) of the Act by virtue of aforesaid transfer of jurisdiction order u/s 127 of the Act is not conceivable.*
- 17. At the same as we observed above that the assessment by said assessing officer was completed in September, 2021, thus, there was no occasion for concerned AO to invoke 'reference' powers under second proviso to sub-section (3) of section 143 of the Act. It appears that when confronted with the situation that the second proviso of section 143(3) having come into effect from 01.04.2022 is not applicable to the assessment initiated consequent to search and seizure operations u/s 132 of the Act carried out on 19.02.2020, the ld. PCIT, Gurgaon improved his case by claiming that he had exercised his powers by virtue of clause (a) of sub-section (4) of section 12AB, which entitles a Principal Commissioner or Commissioner to take cognizance on the basis of a 'specified violation' coming into his notice during any previous year. At the cost of repetition, we observe that reference in section 12AB is not to PCIT or Commissioner to whom the said Assessing Officer would be subordinate, but, the CIT(E) who has been given special power for grant and cancellation of the registration as original jurisdiction.*
- 17.1 Furthermore, here in this case, the exercise of power u/s 12AB(4) of the Act seems to also not have been done in accordance with law. As what comes up further is that, if at all, PCIT, Gurgaon was acting under clause (a) to Section 12AB(4), then, before issuing the notice dated 08.09.2022, itself the ld. PCIT, Gurgaon should have first formed his opinion that the assessee had committed one or more of a 'specified violation'. However, as we go through the relevant part of the impugned order we find that the ld. PCIT has not mentioned as to which amongst the various specified violations mentioned in Explanation attached to*

sub-section (4) of section 12AB were attracted so as to show cause the assessee under sub-section (4) of section 12AB of the Act and ask for information by notice dated notice dated 08.09.2022.

17.2 Rather, in the opening paragraph at page 34 of the impugned order, the ld. PCIT mentions, “it was noticed that the assessee trust has committed one or more specified violation. Thereafter, information was called for from the assessee trust by this letter dated 08.09.2022.” We are of the view that when Ld. PCIT was assuming jurisdiction under clause (a) to Section 12AB(4), then while calling for the documents or information under clause (i) of sub-section (4) of Section 12AB, the assessee should be notified as to for which of the ‘specified violation’ the Ld. PCIT is calling for the information or documents. The same is not coming from the impugned order that before issue of notice on 08/09/2022, calling for the documents or information under clause (i) of sub-section (4) of Section 12AB, Ld. PCIT, Gurgaon had actually ‘noticed’ one or more of such ‘specified violation.’

17.3 In this context further if the final show cause notice dated 14.03.2023 available at pages 7 to 37 of the paper book is considered, it shows in para 4.10 a reference is made to what sort of information was called by letter dated 08.09.2022:-

“4.10 In the light of above facts of the case, it appears that the assessee trust has made specified violation in terms of explanation to Section 12AB(4) of the Income Tax Act, 1961. As such, following information from the assessee trust was called for under Section 12AB of the Act vide this office letter dated 08.09.2022 to examine the activities of the Aggarwal Vidya Pracharni Sabha with a view to ascertain whether the same are covered under the clause of explanation to the provisions of Section 12AB(4) of the Act and other provisions of the Act. Details of information called for the relevant period i.e. AY 2014-15 to 2020-21 is as under:

- Copy of registration u/s 12AA/ 12AB(1) of the Act.
- Coy of memorandum of association containing the objects for which the Aggarwal Vidya Pracharni Sabha was set up along with copy of registration with the relevant authorities.

- *Details of capital expenditure and revenue expenditure incurred for various A.Ys. as mentioned above.*
- *Copies of Form 10 and Form 10B in respect of funds accumulated u/s 11(1)(a), 11(2) of the Act and year wise utilization of the same.*
- *Specify the activities of which the accumulated funds have been utilized.*
- *Copy of account of the Aggarwal Vidya Pracharni Sabha with M/s Tirupati Realbuild Pvt. Ltd. And M/s Radhey Krishna Infratech Pvt. Ltd. For the above AYs explaining the nature and purpose of transactions undertaken with the said entities including advance given for the purpose of construction along with supporting evidences in order to substantiate the genuineness of the same.*
- *Relationship of the Aggarwal Vidya Pracharni Sabha and its members with the directors of M/s Tirupati Realbuild Pvt. Ltd. And M/s Radhey Krishna Infratech Pvt. Ltd.”*

17.4 Then in para 4.1.2 sub-clause (d), the ld. PCIT mentions of the earlier letter dated 08.09.2022 that:

“d) Further, vide this office letter dated 08.09.2022, the assessee was requested to furnish details of capital and revenue expenditure incurred for various assessment years. In response, the assessee only submitted copy of Form 10B which is not supported with the details of capital expenditure and copy of accounts and documentary evidence. Further, no activity was specified for which accumulated funds were utilized.”

18. Thus it appears that by this notice dated 14.03.2023, only the assessee for the first time was asked to show cause about the ‘specified violation’ of the nature reproduced below:-

“(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution;”

19. Thus, if it was the case of the PCIT (Central), Gurgaon that he was exercising the powers u/s 12AB(4)(a) on his own cognizance of the ‘specified violation’, then, at first instance as he was not competent authority u/s 12AB(1) to pass an

order of registration of the Trust, then, he had no powers u/s 12AB(4) to call for to show cause an order of cancellation. In any case, the manner of exercise of jurisdiction without first making conclusive notice of the alleged 'specified violation' is not sustainable.

20. We have also taken into consideration the order of the Jaipur Bench of the in the case M/s Wholesale Cloth Merchant Association vs. Pr. CIT (Central), Jaipur in ITA No.688/JP/2019 where this issue of jurisdiction u/s 127 of the Act has been considered and the findings support out aforesaid view on the facts before us. It will be appropriate to reproduce the relevant paras No.14 and 15:-

“14. We found that the above facts and proceedings of power of transfer U/s 127 was only for a limited purpose of Co-Ordinate Assessment. Neither any search & Seizure action nor any notice u/s 153A or 153C of the Act or assessment u/s 153A or 153C of the Act in the case of assessee were initiated and there was only a survey u/s 133A of the Act in the case of assessee. The assessment has been completed u/s 148/143(3) of the act vide order dated 19.12.2018. As the assessment has been completed, the purpose of transfer u/s 127A has also been completed. Although No notices regarding the transfer of the cases u/s 127 have been sent to the assessee for the purpose of Co-ordinate assessment and the purpose of transfer was only Co-Ordinate Assessment as clearly mentioned in the transfer letter 19.08.2016. The assessment was completed u/s 148 r.w.s 143(3) 19.12.2018 and the proposal was sent to the Pr. CIT(C) which has been received on 31.12.2018 in the office of Pr. CIT(C) on 23.01.2019 after a lapse of more than one month.

15. Even otherwise, in the said notification, there is no mention where CIT(E) can transfer to other CIT or Pr.CIT. The said notification of CBDT has authorized the CIT(E) to issue order in writing for the exercise of the powers and functions by the Addl.CIT or JCT or TRO who are "subordinate" to them and has authorised the Addl.CIT to issue order in writing for the exercise of the powers by the Assessing Officer who are the subordinate to them. In [section 124](#) of the Act, the jurisdiction of Assessing Officer has been given and not 'Jurisdiction of Commissioner'.”

20.1 The Jaipur Bench has dealt with this issue further in paras 18 to 21 as under:-

“18. We also observe that as per Sec. 120(6) of the Act, the CBDT by its Notification No. 52/2014 and 53/2014 dated 22.10.2014 has given power to CIT(Exemption) Jaipur for the State of Rajasthan for all cases of persons in the territorial area specified in column (4) claiming exemption under clauses (21), (22), (22A), (22B), (23), (23A), (23AAA), (23B), (23C), (23F), (23FA), (24), (46) and (47) of section 10, section 11, section 12, section 13A and section 13B of the Act and assessed or assessable by an Income-tax authority at serial numbers 131 to 140 specified in the notification of Government of India bearing number S.O.2752 dated the 22nd October, 2014. Thus firstly as per above notification and provisions of Sec. 120 and 127 the ld. CIT(Exmp.) cannot transfer or hand over or given his work or power or duties to the other same rank of CIT at all to cancel the Registration u/s 12AA. However, in case, if it is necessary to do so then there has to be proper proceedings in writing. As there has to be some order in writing from higher authorities i.e. from Chief Commissioner of Income Tax (Exmp.) Delhi or CBDT in writing and an opportunity of being heard is to be given to the assessee before transferring the case whereas all these are absent in the present case and nothing has been demonstrated by the department.

19. We further observe that Sec. 127 of the Act empower to transfer cases among Assessing Officers but not to Commissioners of Income Tax as CIT is not an Assessing Officer. In our view, to pass an order u/s 12A for registration or cancellation is not within the jurisdiction or power of an Assessing Officer. Hence registration u/s. 12A can be withdrawn only by the 'Prescribed Authority' who has been empowered to grant the same and by the Notification dated 22.10.2014 the ld.CIT(Exmp.) has empowered for the same, hence the Pr.CIT (Central) cannot cancelled the same.

20. In assessee's case, the case u/s 127 was transferred to the Central Circle for limited purpose of Co-Ordinate assessment admittedly which do not mean

that the Section 12A proceeding has been transferred to the Pr.CIT(Central) Automatically, when both the proceedings are separately or independent and also has to be done or conducted by the different rank Authorities. More particularly when for the purpose of Exemption cases or 12A registration a Separate Commissioner of Income Tax has been Authorized for whole of Rajasthan by the CBDT by its Notification dated 22.10.2014. In support of the above contention, the ld AR has relied on the decision in the case of Dilip Tanaji Kashid vs. M.I. Karmakar PR. CIT& ANR. (2018) 304 CTR 0436 (Bom) wherein It has been held:

“Transfer of jurisdiction--Power of competent officers--Centralization of case--Dissenting note--Assessee was issued notice enshrining proposal for transfer of his case from Kolhapur to Mumbai, so as to centralise cases relating to D.Y. Patil Group--Assessee objected that such notice did not referred to any agreement being reached by officers of equal rank at Mumbai and Kolhapur--These objections were however overruled and assessee's case was transferred--High Court quashed purported transfer u/s 127--Held, "Centralisation Committee" which took decision for transfer of jurisdiction, is not authority envisaged u/s 127(2)--Counter-affidavit filed on behalf of Revenue does not disclose that there was any agreement between authorities of equal rank,as a pre-condition for invoking powers u/s 127--"Absence of dissenting note" from officer of equal rank who has to agree to proposed transfer would not constitute agreement, envisaged u/s 123(2)(a)--Assessee's petition allowed.”

21. *It was also been brought to our notice that the AR had inspected the records of the case but there was no agreement between both the CIT's regarding initiation of proceedings U/s [12A of the Act](#). The entire communication on record is with regard to limited purpose of Co-Ordinate assessments only. Even the Instruction No. F.No.286/88/2008IT(Inv-II) dated 17.09.2008 has relied upon by the Revenue also relates to "search assessment" and was not with regard to proceedings U/s 12A or other proceedings. Even no agreement for initiation proceedings U/s 12AA of the Act has been found out on record. Even, the proposal for centralization was not sent within the statutory time of 30 days from the date of search as admittedly the*

search was conducted on 30.06.2016 and the proposal was sent on 19.08.2016 i.e. after 30 days of the search. In this respect, the ld AR has relied upon the decision in the case of *Rentworks India (P) Ltd. vs. Pr.CIT & ANR.*(2017) 100 CCH 0258 Mum HC wherein it has been held that:

“ Income tax authorities--Power to transfer cases--Jurisdiction--CIT, issued notice to assessee taking recourse to subsection 2 of Section 127--Assessee was put to notice that there was proposal to transfer case of assessee to DCIT, for proper co-ordinated investigation--Impugned order was made by Principal CIT under sub-section 2 of section 127 by which case of assessee was transferred to DCIT--Held, in Noorul Islam Educational Trust it was held that as Income-tax/assessment file of assessee had been transferred from one AO in Tamil Nadu to another AO in Kerala and two AO were not subordinate to same Director General or Chief Commissioner or Commissioner of Income Tax u/s 127(2) (a) agreement between Director General, Chief Commissioner or Commissioner, as case might be, of two jurisdictions was necessary-- Counter affidavit filed on behalf of Revenue did not disclose that there was any such agreement--In fact, it had been consistently and repeatedly stated in said counter affidavit that there was no disagreement between two Commissioners--Existence of agreement between two jurisdictional Commissioners was condition precedent for passing order of transfer-- Clause (b) of sub-section (2) of section 127 provides for consequences when there was no such agreement--When jurisdiction to pass order of transfer under clause (a) of sub-section (2) of Section 127 could be exercised only when there was such agreement, fact that such agreement exists ought to had been stated in show cause notice as same was jurisdictional fact--It was on basis of written document that finding was recorded that there was agreement between Jurisdictional Commissioners of Ranchi and Delhi--Even going by case made out by revenue, no such agreement was spelt out.

8. *The Apex Court has categorically held that the absence of disagreement will not be tantamount to an agreement as visualized under section 127(2)(a) which contemplates positive state of mind of the two jurisdictional Principal Commissioners of Income Tax. The agreement contemplated by clause (a) of sub-section*

(2) of [section 127](#) may not be a drawn up agreement. What is necessary is that there has to be an agreement which will involve positive state of mind of the two jurisdictional Principal Commissioners. Both of them must consent to the transfer after application of mind.

9. In the present case, it is not even the case made out in the show cause notice that the agreement as contemplated by the first part of clause (a) of sub-section (2) of [section 127](#) exists. The existence of such agreement between two jurisdictional Commissioners is a condition precedent for passing the order of transfer. Except for the request which came from the investigation office, Chennai of transferring the case, 38 ITA 688/JP/2019_ M/s Wholesale Cloth Merchant Association Vs Pr.CIT there is no reference whatsoever to any such agreement. Clause (b) of sub-section (2) of [section 127](#) provides for consequences when there is no such agreement. When the jurisdiction to pass an order of transfer under clause (a) of sub-section (2) of [Section 127](#) can be exercised only when there is such an agreement, the fact that such an agreement exists ought to have been stated in the show cause notice as the same is a jurisdictional fact. Apart from the failure to mention the same in the show cause notice, the only stand of the revenue is that there is an agreement by implication. This stand is completely contrary to paragraph 5 of the decision of the Apex Court in the case of Noorul Islam Educational Trust (supra). The decision in the case of Ramswaroop (supra) will also bind this Court for the reasons stated above.
10. Coming to the decision in the case of Jharkhand Mukti Morcha, relevant facts are in paragraph 12. In the said case, specific reliance was placed on a document dated 27th November 2016. It is on the basis of the written document that a finding was recorded that there was an agreement between the Jurisdictional Commissioners of Ranchi and Delhi. In the present case, even going by the case made out by the respondent, no such agreement is spelt out. In absence of any such agreement, the first respondent had no jurisdiction to pass the order of transfer.
11. As the impugned order cannot be sustained on above ground, it is not necessary to into other challenges.

12. Accordingly, for the reasons quoted above, we pass following order:

Impugned order dated 25th May 2017 (Exhibit-H to the petition) is hereby quashed and set aside. Rule is made absolute on above terms with no order as to costs.

The Hon'ble Supreme Court in the case of Ajantha Industries & Ors. vs. Central Board of Direct Taxes & Ors. (1976) 102 ITR 0281 has been held that:

"The CBDT sent a notice to the appellants under [s. 127](#) proposing to transfer their case files "for facility of investigation" from the respective ITO at Nellore to the ITO, B Ward, Special Circle II, Hyderabad. By this notice they were also asked to submit in writing if they had any objection to the proposed transfer within 15 days of receipt of the notice. The appellants made their representation objecting to the transfer and on 26th July, 1973, the Central Board passed the impugned order transferring the cases from Nellore to Hyderabad. The short question that arises for consideration is whether failure to record the reasons in the order which was communicated to the appellants is violative of the principles of natural justice for which the order should be held to be invalid.

Held :

The requirement of recording reasons under [s. 127\(1\)](#) is a mandatory direction under the law and non-communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee. When law requires reasons to be recorded in a particular order affecting prejudicially the interests of any person, who can challenge the order in Court, it ceases to be a mere administrative order and the vice of violation of the principles of natural justice on account of omission to communicate the reasons is not expiated. Non-communication of the reasons in the order passed under [s. 127\(1\)](#) is a serious infirmity in the order for which the same is invalid.--Kashiram Aggarwalla vs. Union of India (1965) 56 ITR 14 (SC) : TC69R.660 and [S. Narayanappa vs. CIT](#) (1972) 86 ITR 741 (All) : TC51R.651 distinguished; [Sunanda Rani Jain vs. Union of India](#) 1975 CTR (Del) 135 : (1975) 99 ITR 391 (Del) : TC69R.693 overruled; Judgment and order dt. 12th

Sept., 1974, of the Andhra Pradesh High Court in Writ Appeal No. 626 of 1974 set aside.

The Hon'ble Supreme Court in the case of [Noorul Islam Educational Trust vs. CIT AND Ors](#) (2016) 388 ITR 0489 (SC) held that

Special Leave Petition--Transfer of case--Validity--High Court of Madras, Madurai Bench, upheld order of C.I.T.1, Madurai, Tamil Nadu, transferring file of assessee from Tamil Nadu to Kerala--Held, as Income-tax/assessment file of assessee has been transferred from one Assessing Officer in Tamil Nadu to another Assessing Officer in Kerala and two Assessing Officers are not subordinate to same Director General or Chief Commissioner or Commissioner of Income Tax, u/s 127(2) (a) an agreement between Director General, Chief Commissioner or Commissioner, as the case may be, of two jurisdictions is necessary-- Absence of disagreement cannot tantamount to agreement as visualized under [Section 127\(2\)](#) (a) which contemplates a positive state of mind of two jurisdictional Commissioners of Income Tax which is conspicuously absent--Transfer of Income-tax/assessment file of assessee from Assessing Officer, Tamil Nadu to Assessing Officer, Kerala is not justified--High Court order set aside--Special appeal allowed.

Although, the ld DR has relied upon the decision of Hon'ble Rajasthan High Court in the case of Lalit Hans Vs PCIT DP Special Appeal (Writ) 249/2015 but the facts of the above case are entirely different. Hence, the said judgment is of no help to the Revenue on the facts of the present case. Thus, keeping in view our above discussions, we are of the view that the ld. PCIT had no jurisdiction to pass order U/s 12AA(3) & 12AA(4) of the Act and the same is not sustainable in the eyes of law and accordingly stands quashed.”

21. *In the light of the aforesaid discussion and the law cited before us, we are of the considered view that the impugned order has been passed by Ld. PCIT, Gurgaon, without jurisdiction in context to territorial powers and subject matter as well not in accordance with law and same is liable to be quashed. Accordingly, the additional ground raised by the assessee is allowed. Since the relief is granted to*

assessee by allowing additional ground itself, the adjudication of other grounds raised by the assessee become academic in nature and are left open. Resultantly, the appeal of the assessee is allowed and the impugned order is quashed.”

11. *Further under identical circumstances, the Co-ordinate Bench of ITAT, Jodhpur in the case of Pacific Academy of Higher Education and Research Society vs. PCIT, Central in ITA No. 04/Jodh/2020 and ITA No. 05/Jodh/2020 vide order dated 25.01.2023 by making the following observations has held that the PCIT(Central) has no power to cancel the registration granted by the Id. CIT(E). The relevant observations as contained in para 6.2 to 6.7 of the order are as under:*

“6.2 First of all, we would like to deal with legal objection raised by the assessee with regard to the jurisdiction of Pr. CIT(Central) in issuance of show cause notice and in passing of consequent order. In this respect, our attention was drawn towards Section 120(3) and CBDT Circular No. 52/2014 and 53/2014 both dated 22/10/2014. As per provisions of Section 120(3) of the Act, the criteria of Jurisdictions of Income Tax Authorities has been provided by the CBDT and as per provisions of Sec. 120(3) of the Act, there are four criteria for deciding the jurisdiction and the same are reproduced below:

(3) In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorized by it may have regard to any one or more of the following criteria, namely: -

- (a) territorial area;*
- (b) persons or classes of persons;*
- (c) incomes or classes of income; and*
- (d) cases or classes of cases.*

Therefore, in furtherance of the said provisions, the CBDT vide notification Nos. 52/2014 and 53/2014 both dated 22/10/2014 had given powers to Id. CIT(Exemption) Jaipur for the State of Rajasthan for all cases of persons in the territorial area specified in column (4), claiming exemption under clauses (21), (22), (22A), (22B), (22C), (22D), (22E), (22F), (22G), (22H), (22I), (22J), (22K), (22L), (22M), (22N), (22O), (22P), (22Q), (22R), (22S), (22T), (22U), (22V), (22W), (22X), (22Y), (22Z), (23), (23A), (23AA), (23B), (23C), (23D), (23E), (23F), (23G), (23H), (23I), (23J), (23K), (23L), (23M), (23N), (23O), (23P), (23Q), (23R), (23S), (23T), (23U), (23V), (23W), (23X), (23Y), (23Z), (24), (46) and (47) of section 10, section 11, section 12, section 13A and section 138 of the Act and assessed or assessable by an Income-tax authority

at serial numbers 131 to 14 specified in the notification of Government of India bearing number S.O. 2752 dated the 22nd October, 2014. Thus, in this way from Oct, 2014 Id. CIT (Exemption) has been constituted separately for these class or type of cases. Hence, the case of the assessee admittedly falls in the jurisdiction with the Id. CIT (Exemption).

- 6.3. *We found from perusal of the record that a search and seizure operation has been carried out in the case of Pacific Group of Udaipur on 26.08.2015. Warrant of authorization under section 132(1) of the Act was also issued and duly executed in respect of the assessee trust being part of the Pacific Group. The Notification referred above does not provide that Id. CIT (E) can transfer his power or jurisdiction to other CIT or PCIT. In the said notification the CBDT has authorized the CIT (E) to issue order in writing for the exercise of powers and functions by the Addl. CIT or JCIT or TRO who are subordinate to him, and has authorized the Addl. CIT to issue order in writing for the exercise of powers by the Assessing Officer who are subordinate to him. In section 124 jurisdiction of Assessing Officer has been given, not the jurisdiction of Commissioner. Further, in section 127 power of transfer of cases has been given from one Assessing Officer to other Assessing Officer and not from CIT to CIT. Therefore, registration under section 12A or approval under section 10(23C)(vi) can be withdrawn only by the prescribed authority who is empowered to grant the same. Notification No. 52/2014 and 53/2014 dated 22.10.2014 only empower the CIT (E) to withdraw the registration/approval. The Pr. CIT has not been given power to withdraw/cancel the registration/approval.*
- 6.4 *Further, in the said notification, there is no mention where CIT(E) can transfer to other CIT or Pr. CIT. The said notification of CBDT has authorized the CIT(E) to issue order in writing for the exercise of the powers and functions by the Addl. CIT or JCT or TRO who are "subordinate" to them and has authorized the Addl. CIT to issue order in writing for the exercise of the powers by the Assessing Officer who are the subordinate to them. In section 124 of the Act, the jurisdiction of Assessing Officer has been given and not Jurisdiction of Commissioner'.*
- 6.5 *Further in Sec. 127 of the Act, the power of transfer of cases is given from one Assessing Officer to another Assessing*

officer not from CIT to CIT. For ready reference, we reproduce Sec. 127 of the Act, which provides as under:

127. (1) The Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,-

- (a) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners to whom such Assessing Officers are subordinate are in Chief Commissioner or Chief Commissioner or Principal Commissioner o agreement, then the Principal Director General or Director General or Principal Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order,*
- (b) where the Principal Directors General or Directors General or Principal Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorize in this behalf.*

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation. In section 120 and this section, the word "case", in relation to any person whose name is specified in any order or direction issued there under, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

6.6 *Sec. 120 (4) to 120(6) also provide the work assigned to the subordinate officers which is reproduced below:*

(4) Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,

(a) authorize any Principal Director General or Director General or Principal Director or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(b) empower the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by an Additional Commissioner or

an Additional Director or a Joint Commissioner or a Joint Director, and, where any order is made under this clause, references in any other provision of this Act, or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or Joint Director by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.

We also observe that as per Sec. 120(6) of the Act, the CBDT by its Notification No. 52/2014 and 53/2014 dated 22.10.2014 has given power to CIT(Exemption) Jaipur for the State of Rajasthan for all cases of persons in the territorial area specified in column (4) claiming exemption under clauses (21), (22), (224), (228), (23), (23A), (23AAA),

(23B), (23C), (23F), (23FA), (24), (46) and (47) of section 10, section 11, section 12, section 13A and section 13B of the Act and assessed or assessable by an Income-tax authority at serial numbers 131 to 140 specified in the notification of Government of India bearing number S.O. 2752 dated the 22nd October, 2014. Thus firstly as per above notification and provisions of Sec. 120 and 127 the Id. CIT(Exmp.) cannot transfer or hand over or given his work or power or duties to the other same rank of CIT at all to cancel the Registration u/s 12AA. However, in case, if it is necessary to do so then there has to be proper proceedings in writing. As there has to be some order in writing from higher authorities i.e. from Chief Commissioner of Income Tax (Exmp.) Delhi or CBDT in writing and an opportunity of being heard is to be given to the assessee before transferring the case whereas all these are absent in the present case and nothing has been demonstrated by the department.

6.7 We further observe that Sec. 127 of the Act empower to transfer cases among Assessing Officers but not to Commissioners of Income Tax as CIT is not an Assessing Officer. In our view, to pass an order u/s 12A for registration or cancellation is not within the jurisdiction or power of an Assessing Officer. Hence registration u/s. 12A can be withdrawn only by the 'Prescribed Authority' who has been empowered to grant the same and by the Notification dated 22.10.2014 the Ld. CIT(Exmp.) has empowered for the same, hence the Pr. CIT (Central) cannot cancel the same."

12. As the facts of the aforesaid cases of the Co-ordinate Benches in the case of Aggarwal Vidya Pracharni Sabha v. PCIT and Pacific Academy of Higher Education and Research Society vs. PCIT(supra) are identical to the facts of the present case of the assessee, thus, by respectfully following the same and further looking to the facts that in the instant case, as CBDT Notification dated 22.10.2014 CIT(E) is the prescribed authority to grant/cancel the registration u/s 12A of the Act and, therefore, the Ld. PCIT, Central, Kanpur has no jurisdiction to cancel the same. Therefore, the said order of PCIT cancel the registration is hereby quashed."

8. In the instant case, registration was granted u/s 12A of the Act to the assessee w.e.f. 01.04.1998 which was renewed vide order dated 24.09.2021 by the Ld. CIT (Exemption), Lucknow. We further

observe that as per section 127 of the Act, power is given to transfer cases among Assessing Officers but not to Commissioners of Income Tax as CIT is not an Assessing Officer. In our considered view, granting of registration u/s 12A of the Act or cancellation of the same is within the jurisdiction or power of PCIT. Hence registration u/s 12A can be withdrawn only by the 'Prescribed Authority' who has been empowered to grant the same and by the Notification dated 22.10.2014, the Ld. CIT (Exemption), Lucknow has empowered for the same, hence the Pr. CIT (Central), Kanpur cannot cancel the same.

9. In view of the above factual position and factual matrix and by following the legal pronouncements, we are of the view that PCIT, Central, Kanpur has no jurisdiction to cancel the registration of the assessee and therefore, the said order passed is without jurisdiction and thus is hereby, cancelled. Accordingly, Ground of appeal Nos. 1 to 6 raised by the assessee are allowed.

10. The remaining **Ground of appeal Nos. 7 to 16** raised by the assessee are thus, not adjudicated.

11. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 16.01.2026.

Sd/-

(YOGESH KUMAR U.S)
JUDICIAL MEMBER

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date:- 16.01.2026

Amit Kumar, Sr.P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT
6. Guard File

ASSISTANT REGISTRAR
ITAT