

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.1920/Bang/2025
Assessment Year: ---

M/s Raya Naik Memorial Gowshala Trust, #766 Kajubag, Kajubag Karwar, Uttara Kannada – 581 301. PAN – AAETR 1324 A	Vs.	The Commissioner of Income Tax (Exemptions), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Siddesh Gaddi, CA
Revenue by	:	Shri Muthu Shankar, CIT (DR)

Date of hearing	:	20.01.2026
Date of Pronouncement	:	27.01.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The present appeal has been instituted by the assessee against the rejection order of the Ld. CIT(E) u/s 12AB of the Act in Form No. 10AD dated 26-06-2025.

2. The assessee in the memo of appeal raised multiple grounds numbered 1 to 13, which we, for the sake of brevity and convenience are not inclined to reproduce here.

3. The ground of appeals filed by assessee is limited to the issue of rejection order of the Ld. CIT(E) u/s 12AB of the Act in Form No. 10AD.

4. The brief facts are the assessee, a trust, is engaged in charitable activities relating to animal welfare such as providing shelter, care etc. to abandoned and stray cattle. The assessee was granted a provisional registration u/s 12A(1)(ac)(vi) of the Act. The assessee applied for regular registration in the prescribed form 10AB dt. 28.11.2024

5. The Ld. CIT(E) during the proceedings observed that the assessee trust failed to establish the genuineness of its activities as required under section 12AB of the Act. The observation of the Id. CIT(E) was based on the facts detailed below:

- i. There was a mismatch in the number of cows stated in the assessee's submissions and the number of cows reflected on the assessee's website.
- ii. The expenditure incurred towards fodder was disproportionately low when compared to the number of cows claimed to be maintained in the gaushala.
- iii. The assessee received a donation of ₹25,00,000 from one Shri Kamalaksha R. Naik and that the assessee failed to furnish the income-tax return and ITR-V of the donor, thereby rendering the creditworthiness of the donor unverifiable.
- iv. The land and building used for running the gaushala were not owned by the trust and that the entire cost of acquisition and construction was borne by one of the trustees, Shri N. N. Savant, thereby raising doubts as to whether the assets were held by the trust.

6. On the above basis, the Ld. CIT(E) held that the assessee failed to furnish credible and verifiable evidence to establish the genuineness of its activities and compliance with the requirements of section 12AB(1)(b) of the Act. Accordingly, the learned CIT(E), being not satisfied about the genuineness of the activities of the assessee trust, rejected the application filed in Form No. 10AB for grant of regular registration u/s 12AB of the Act.

7. Aggrieved by the order of the Ld. CIT(E), the assessee is in appeal before us.

8. The Ld. AR submitted that the assessee is a charitable trust engaged in the management and operation of a gaushala, carrying out activities relating to shelter, care and protection of abandoned and stray cattle. It was submitted that the assessee is presently maintaining about 52 cows and that the land and building used for the gaushala are owned by Shri Narayan N. Sawant, who is the settlor of the trust.

8.1 The learned AR clarified that the reference to 201 cows on the assessee's website pertains only to the total capacity of the gaushala and not to the actual number of cows housed during the relevant period. It was contended that the said discrepancy was inadvertent and, in any case, does not affect the genuineness of the charitable activities carried out by the trust.

8.2 It was further submitted that while examining the application for registration under section 12AB of the Act, the learned CIT(E) had sought information beyond the scope and mandate of the said provision.

According to the Ld. AR, the assessee had furnished all primary and relevant documents including the trust deed, objects, details of activities, financial statements and bank details to establish the genuineness of its activities.

8.3 The Ld. AR submitted that u/s 12AB of the Act, the Id. Commissioner is required to examine only the charitable nature of the objects and the genuineness of the activities and, once these conditions are satisfied, registration cannot be denied on unwarranted considerations such as adequacy of expenditure or ownership of assets.

8.4 It was contended that the activities carried out by the assessee, namely maintenance and protection of cattle and allied welfare activities, fall squarely within the definition of "charitable purpose" under section 2(15) of the Act and are carried out without any profit motive.

8.5 With regard to the objection relating to low fodder expenditure, the Ld. AR submitted that fodder is sourced not only through purchases but also through self-cultivation, locally available agricultural by-products and donations in kind. It was pointed out that the assessee has access to agricultural land where green fodder is cultivated, thereby reducing dependence on purchased fodder.

8.6 In respect of the donation of ₹25,00,000 received by the trust, the Ld. AR submitted that the learned CIT(E) had questioned the creditworthiness of the donor, which is beyond the scope of proceedings under section 12AB of the Act. It was contended that identity of the

donor was available on record and that verification of source of donation, if required, falls within the domain of assessment proceedings.

8.7 It was further submitted that denial of registration on the ground that the land and building are owned by a trustee is legally unsustainable, as there is no requirement under the Act that charitable activities must be carried out only on assets owned by the trust.

The Ld. AR also contended that the Ld. CIT(E) failed to utilise the powers available u/s 133(6) of the Act to verify facts and rejected the application without conducting proper enquiries, thereby violating principles of natural justice.

8.8 Reliance was placed on various judicial precedents to submit that registration under section 12AB cannot be denied on the basis of presumptions, estimated expenditure or issues which are relevant only at the stage of assessment.

8.9 Accordingly, it was prayed that the impugned order passed by the Ld. CIT(E) rejecting the application for registration under section 12AB be set aside and registration be granted to the assessee.

9. Per contra, the Ld. DR before us submitted that the order passed by the Ld. CIT(E) rejecting registration under section 12AB was well-reasoned and in accordance with law. It was contended that at the stage of granting registration, the Commissioner is not required to act as a mere rubber stamp and is duty-bound to satisfy himself about the genuineness of activities actually carried out, and not merely the charitable nature of the objects as stated in the trust deed. Accordingly,

the Ld. DR prayed that the impugned order of the Ld. CIT(E) rejecting the assessee's application for registration under section 12AB be upheld and the appeal of the assessee be dismissed.

10. We have considered the rival submissions of both the parties, perused the material available on record and examined the impugned order passed by the Ld. CIT (E). The assessee is a charitable trust engaged in activities relating to animal welfare, including providing shelter, care and protection to abandoned and stray cattle through operation of a gaushala. The assessee was granted provisional registration under section 12A(1)(ac)(vi) of the Act and subsequently filed an application in Form No. 10AB seeking regular registration under section 12AB of the Act.

10.1 The Ld. CIT(E) rejected the said application primarily on the grounds that there was a mismatch in the number of cows stated in the assessee's submissions and on its website, that the expenditure incurred towards fodder was allegedly low, that the creditworthiness of the donor who contributed ₹25,00,000 could not be verified, and that the land and building used for the gaushala were owned by one of the trustees and not by the trust.

10.2 At the outset, it is necessary to reiterate the settled legal position that at the stage of granting registration under section 12AB of the Act, the scope of enquiry is confined to examining (i) the charitable nature of the objects of the trust and (ii) the genuineness of its activities. The provision does not empower the Commissioner to conduct a roving or

detailed enquiry into the application of income, adequacy of expenditure, accumulation of funds, or the source and creditworthiness of donations. In so far as the objection regarding mismatch in the number of cows is concerned, we find merit in the explanation of the assessee that the figure mentioned on the website represents the capacity of the gaushala and not the actual number of cows housed at the relevant time. Minor inconsistencies in website disclosures, even if assumed, cannot by themselves lead to an inference that the activities of the trust are not genuine, particularly when the charitable objects and nature of activities are not disputed.

10.3 With respect to the observation of the Ld. CIT(E) that the fodder expenditure incurred by the assessee is on the lower side, we are of the considered view that the adequacy or quantum of expenditure cannot be a criterion for examining the genuineness of activities at the stage of registration. As held consistently by the Courts, the manner of spending or the sufficiency of expenses is a matter to be examined, if at all, during assessment proceedings and not while granting registration.

10.4 On the issue of donation of ₹25,00,000 received by the trust, we find that the Ld. CIT(E) has travelled beyond the permissible limits of section 12AB of the Act by questioning the creditworthiness of the donor and by seeking the donor's income-tax returns. Verification of the source of donations or the tax affairs of a third party is not contemplated at the stage of registration and falls within the domain of assessment proceedings.

10.5 The Ld. CIT(E) has also denied registration on the ground that the land and building used for running the gaushala are owned by a trustee and not by the trust. We find no statutory requirement under the Act that a charitable trust must own the assets used for carrying out its activities. Charitable activities can validly be carried out on premises owned by trustees or made available to the trust, and the absence of ownership does not negate the charitable character or genuineness of activities.

10.6 The reliance placed by the assessee on the decision of the Bangalore Bench of the Tribunal in *WeVysya vs. Commissioner of Income-tax (Exemptions)* reported in [2025] 174 taxmann.com 1016 (Bangalore – Trib.) is well founded. In the said decision, after relying upon the judgment of the Hon'ble Allahabad High Court in *CIT v. Red Rose School* [2007] 163 Taxman 19 (All.), it has been held as under:

10.4 Coming to the facts of the present case, the assessee has placed before the authorities, the trust deed evidencing its charitable objectives. There is no material brought on record by the Ld. CIT(E) suggesting that the objectives are non-charitable or that the activities undertaken are not genuine. The allegation regarding cash withdrawals by a trustee, without any evidence of diversion for non-charitable purposes, cannot be held sufficient to deny registration. Further, regarding the allegation that the assessee has only meagre amount out of the gross receipt we find that it is not uncommon, especially in the initial stages, for trusts to incur preliminary administrative expenses for setting up operations, hiring personnel, and laying the groundwork for future charitable activities. It is also pertinent to note that the assessee for the A.Y. 2024-25 has accumulated an amount of Rs. 40 Lakh which constitute 81.55 % of income or receipt towards setting up "free training facility centre for skill development for poor and needy" which strengthened the above view.

10.5 In our considered opinion, the Ld. CIT(E) has adopted a highly technical and pedantic approach by focusing on the mode of expenditure rather than evaluating the genuineness of the objectives and the growing stage of the trust's activities. The assessee's explanation that it is in the process of setting up infrastructure and mobilizing resources for larger projects has not been found to be false or untrue.

10.6 Furthermore, the law prescribes that any violation regarding the actual application of income can be examined during the assessment proceedings, and appropriate action under the relevant sections read with Section 12AB can

be taken, but such potential violations cannot be pre-judged at the registration stage.

10.7 Therefore, based on the facts and circumstances of the case, applicable legal provisions, and the judicial precedents referred to above, we hereby set aside the issue to the file of learned CIT(E) for fresh consideration of the assessee's application on in the light of above discussion and judicial precedence. Hence the grounds of appeal raised by the assessee are hereby allowed for statistical purposes.

11 . In the result, the appeal filed by the assessee is allowed for statistical purposes.

10.7 We also find support from the judgment of the Hon'ble Karnataka High Court in DIT (Exemptions) v. Garden City Educational Trust [2010] 191 Taxman 238 / 330 ITR 480 (Kar.), wherein it has been held as under:

"It was not in dispute that one of the objects or even the main object of the trust was imparting education. It was also not in dispute that the trust was imparting education and it was not as though some other activity which was not in the nature of education was sought to be passed on in the name of education. So long as the trust had education as one of its objects, which qualifies and comes within the scope of charitable purpose as enumerated in clause (15) of section 2, it had to be accepted that the trust was having a charitable purpose as its object and might qualify for claiming exemption in terms of sections 11 and 12 subject to fulfilling conditions enumerated therein and if so, grant of registration, so long as the procedural requirements were complied with, was inevitable. [Para 16]

It was not the finding of the Commissioner that the assessee had not complied with any of the procedural requirements. The Tribunal was fully justified in observing that the manner of application of funds and as to whether the assessee could claim the benefit of exemption in terms of sections 11 and 12 was a question which had to be examined by the Assessing Officer at the stage when it was urged and not by the Commissioner when such question was not before him. However, it was to be clarified and emphasized that while registration in accordance with the provisions of section 12A is a condition precedent for claiming the benefits under sections 11 and 12, a registration as per section 12A, by itself, will not automatically confer the benefits of sections 11 and 12 on a trust, but the trust will get the benefit only on complying with the requirements of sections 11 and 12, which compliance can be examined by the assessing authority, while processing the return filed by the trust. Therefore, the revenue's appeal deserved to be dismissed. [Para 18]"

10.8 Further, reliance placed on the decision of the Chandigarh Bench of the Tribunal in Char Nihal Charitable Trust vs. Commissioner of Income-tax (Exemptions), Chandigarh reported in [2021] 90 ITR(T) 191

/ 191 ITD 587 (Chandigarh – Trib.) is also apposite, wherein it has been held that once the objects are charitable and the genuineness of activities is not in doubt, registration cannot be refused on irrelevant considerations.

10.9 We also note the decision of the Delhi Bench of the Tribunal in *Ideal Relief Trust vs. Commissioner of Income-tax (Exemptions)* reported in [2025] 213 ITD 303 (Delhi – Trib.), wherein it has been held that questioning the source of donations is not relevant for the purpose of granting registration under section 12AB of the Act. The relevant extracts are reproduced here for the ready reference:

"10. As to the genuineness of donations allegedly not proved, though Id. Counsel has submitted that donations were received online and therefore, it was not possible to maintain complete details / PAN, which is also not the requirement of section 115BBC of the Act for religious & charitable trust and has questioned applicability of section 115BCC of the Act. We acknowledge the contention that genuineness of donations has to be seen at the time of assessment and not at the time for registration of the Trust as section 12AB(1)(b) does not make any specific reference to such requirement and violation of section 115BBC, is not mentioned as one of the ground for rejection of application.

11. However, we are of considered view that genuineness of the claimed religious and charitable activity, has to be one which, through and through is genuine. Mere recital clauses of such activity or performance of such activity is not sufficient to hold the genuineness of activities of the trust or institution if the source of funds are illegal or otherwise tainted, as by way of money laundering, indicating that though the activity is benevolent, the intention is not. So to hold, that the activities of the trust or institution are genuine and grant registration.

12. Thus we sustain the contention of Id.AR for the present case as Id. CIT(E) has erred in applying provisions of section 115BBC of the Act to deny registration but we don't find it fit to make any observation accepting the genuineness of source and let that issue be examined at appropriate issue. However, the rejection of regularization of the provisional registration granted u/s 12A(1)(ac)(vi) granted vide order dated 25.1.23 & by which regularization was sought by the appellant u/s 12A(1)(ac)(iii), on the ground that conditions of section 12AB(1)(b) are not met by questioning genuineness of donation by recourse to section 115BBC, are held to be beyond the scope of enquiry."

10.10 In the present case, the Ld. CIT(E) has not brought on record any material to show that the objects of the assessee trust are non-charitable or that the activities carried out are not genuine. The rejection of registration is based largely on estimations, presumptions and considerations which are beyond the scope of section 12AB of the Act. In view of the above facts and the settled legal position, we are of the considered opinion that the impugned order passed by the Ld. CIT(E) rejecting the application for registration under section 12AB of the Act is unsustainable in law. Accordingly, we set aside the order of the Ld. CIT(E) and direct him to grant registration to the assessee trust under section 12AB of the Act.

11. In the result, the appeal filed by the assessee is allowed.

Order pronounced in court on 27th day of January, 2026

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 27th January, 2026

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore