

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1707/PUN/2025

Samarth Bharat Sanskar Kendra, Plot No. 43/A6, Near Kiran Building, Vadavali Section, Ambarnath-421501 PAN : AADTS3389K	Vs.	Commissioner of Income (E), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Chandan Katariya
Department by :	Shri Amit Bobde
Date of hearing :	10-02-2026
Date of Pronouncement :	16-02-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 03.12.2024 of the Ld. Commissioner of Income Tax (Exemption), Pune ["CIT(E)"] whereby he rejected the application of the assessee filed before him on 26.06.2024 in Form No. 10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 (**the "Act"**).

2. There is a delay of 144 days in filing of this appeal before the Tribunal for which the assessee has filed an affidavit explaining the reasons for such delay. After hearing both the sides, we are of the view that the delay is attributable to the sufficient cause. We, therefore, in light of the decisions of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji & Ors. (1987) 167 ITR 471 (SC)* and in the case of *Inder Singh Vs. The State of Madhya Pradesh* reported in 2025 Live Law (SC) 339, condone the said delay and proceed to decide the appeal.

3. The assessee has raised the following grounds of appeal :

- “1. That on facts and in law, the learned Commissioner of Income Tax (Exemptions), Pune erred in rejecting the application in Form 10AB filed under clause (i) of Section 12A(1)(ac) of the Income Tax Act, 1961, and in cancelling the provisional registration granted under Section 12A8(1)(c), without proper appreciation of the facts, evidences, and clarifications available.
2. That the learned CIT (Exemptions) failed to consider that the appellant trust had already been granted provisional registration under Section 12A(1)(ac)(vi) read with Section 12AB vide order dated 14/10/2021 based on the fact that the trust was previously registered under the erstwhile Section 12A, and thus, the appellant was legally entitled to seek regular registration under clause (iii) of Section 12A(1)(ac).
3. That the learned CIT (Exemptions) erred in law in ignoring the clarificatory CBDT Circular No. 6 of 2023 dated 24/05/2023, which provided that provisional registrations shall be valid from the assessment year relevant to the previous year in which the application is made, and that such provisional registration is valid and regularizable under the law if application is made within the permitted timeline.
4. That the learned CIT (Exemptions) erred in holding that the appellant failed to comply with the requirements under Section 12AB(1)(b)(i) and Rule 17A(2) of the Income Tax Rules, 1962, despite the appellant having made bonafide efforts to comply with multiple notices and submitted substantial documentary evidence as required.
5. That the learned CIT (Exemptions) erred in law in cancelling the provisional registration under Section 12AB without complying with the procedure laid down under Section 12AB(4), which requires a clear finding that the activities are not genuine or not being carried out in accordance with the stated objects. No such adverse finding has been recorded in the impugned order.
6. That the rejection of the application and cancellation of registration is arbitrary and unjustified, particularly when the appellant had commenced charitable activities, maintained books of account, and applied the income in accordance with its charitable objectives as evident from the submissions and audited financials furnished.
7. That the learned CIT (Exemptions) erred in presuming that activities were not genuine merely due to lack of bill/invoice copies or technical mismatches with financials, which are curable procedural lapses and not grounds for invoking Section 12AB(1)(b)(i) for rejection.
8. That the impugned order is passed in violation of the principles of natural justice, as the appellant was not provided with effective opportunity of being heard, despite the notice dated 21/11/2024 being short dated and voluminous in nature.
9. That the learned CIT (Exemptions) failed to appreciate that the requirement to regularize provisional registration under Form 10AB, and the consequence of non-filing thereof, has to be read harmoniously with the CBDT Circular No. 6 of 2023, which intends to mitigate hardship caused by transitional provisions, especially to previously registered trusts.
10. That the learned CIT (Exemptions) failed to consider that the appellant was already enjoying exemption under the pre-2021 regime, and the

new registration framework effective from 01/04/2021 to 30/09/2023 had recognized such entities through deemed provisional registration and thereby could not be treated at par with new applicants.

11. *That the learned CIT (Exemptions) has acted in excess of jurisdiction by cancelling a valid provisional registration without a show-cause under Section 12AB(4) and without satisfaction of the twin conditions of (i) non-genuineness and (ii) non-compliance with objects of the trust.*
12. *That the order passed is contrary to the letter and spirit of the Finance Act, 2023 and CBDT's own clarifications, which seek to streamline and not penalize bonafide and genuine charitable institutions complying in good faith with the amended law.*
13. *The appellant craves leave to add, alter, amend or withdraw any of the above grounds of appeal before or at the time of hearing."*

4. Briefly stated, the facts of the case are that the assessee is a public charitable trust registered under the Indian Trusts Act. The assessee was previously registered under the erstwhile provisions of section 12A of the Act under old regime. It was granted provisional registration u/s 12A(1)(ac)(vi) r.w.s. 12AB(1)(c) vide order dated 14.10.2021. Thereafter, the assessee filed an application in Form 10AB seeking regular registration on 26.06.2024 under clause (iii) of section 12A(1)(ac) of the Act. On receipt of application filed by the assessee for regular registration u/s 12A(1)(ac)(iii) of the Act along with annexures thereto, the Ld. CIT(E) with a view to verify the genuineness of the activities of the assessee and compliance to requirements of any other law for the time being in force issued notice through ITBA portal on 22.07.2024 requesting the assessee to upload certain information/clarification contained therein, the compliance of which was sought by 06.08.2024. On verification of the details submitted by the assessee, the Ld. CIT(E) observed certain discrepancies which were communicated to the assessee vide issue of show cause notice dated 21.11.2024. The said discrepancies are reproduced below :

"(i) In respect of medical activities carried out, kindly furnish the details of experts/ nurses/doctors appointed by you along with their qualification documents. In respect of tree plantation activities, furnish the permission letter obtained from the owner of the place of plantation.

(ii) In respect of corpus and earmarked donation received, furnish the letter of direction received from the donors.

(iii) The activities carried out mentioned by you in note on activity is not synchronizing with the financial statements. Therefore, the activities of the institution cannot be considered to be genuine.

(iv) Furnish copies of bill/invoices of expenses done on activities as shown in your financial statement."

5. The compliance to the show cause notice was sought by 27.11.2024. The assessee failed to furnish any explanation to the discrepancies communicated vide the said show cause notice which led the Ld. CIT(E) presume that the assessee has nothing to say in the matter. He proceeded to reject the application of the assessee and also the provisional registration granted earlier observing as under :

“7. Considering the above facts discussed in the show notice and discrepancies noticed and also that the assessee has not complied with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 as well as the provisions of Rule 17A(2) of Income Tax Rules, 1962 in spite giving sufficient opportunities, the undersigned is unable to draw any satisfactory conclusion about the genuineness of activities of the assessee and compliance of requirements of any other law for the time being in force by the assessee as are material for the purpose of achieving its objects.

8. In view of the above, the application filed by the assessee is hereby rejected and the provisional registration granted on 14/10/2021 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled.”

6. Aggrieved, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

7. The Ld. AR, at the outset, submitted that the non-compliance before the Ld. CIT(E) to the show cause notice was not intentional. The assessee has duly filed response to the first notice issued by the Ld. CIT(E) and submitted all the information called for, however, subsequent notice/show cause notice issued by the Ld. CIT(E) could not be complied with because very short span of time was given to the assessee and considering the voluminous content and the extensive information/clarification and reconciliations called for by the Ld. CIT(E), it was practically difficult for the assessee to complete the collation and make the submissions in the limited time provided by the Ld. CIT(E). He further submitted that the assessee filed application for regular registration u/s 12A under wrong section code inadvertently and the rejection of the assessee's application for this reason is hyper technical in nature. He submitted that the assessee being a provisionally registered trust u/s 12A ought to have applied u/s 12A(1)(ac)(i) for re-registration as an existing registered entity but instead applied u/s 12A(1)(ac)(iii) which pertains to trusts seeking regular registration after provisional registration. Placing reliance on the decision of the Mumbai ITAT in the case of Buddhadev Educational Charitable Trust Vs. CIT (Exemptions) and CBDT Circular No. 6 of 2023

dated 24th May, 2023, the Ld. AR submitted that the Ld. CIT(E) may thus be directed to treat the application as having been filed under the correct clause, namely section 12A(1)(ac)(i) and to re-consider the application of the assessee on merits.

8. The Ld. DR relied on the order of the Ld. CIT(E). However, he had no serious objection if the matter is set aside to the file of the Ld. CIT(E) as requested by the Ld. AR.

9. We have heard the Ld. Representatives of the parties and perused the order of the Ld. CIT(E) and paper book filed by the Ld. AR on behalf of the assessee as well as judicial precedents relied upon by the Ld. AR. The facts of the case are not disputed. The assessee trust was admittedly registered u/s 12A prior to the amendments introduced by the Finance Act, 2020. It was granted provisional registration vide order dated 14.10.2021. All the documentary evidences placed on record establishes the fact that the assessee is continuing trust and not a new trust. There appears to have been a bonafide inadvertent error/confusion in the selection of the correct clause while filing the application in Form 10B. We find force in the submissions of the Ld. AR that the Ld. CIT(E) ought to have considered the case of the assessee in light of the CBDT Circular No. 6 of 2023 (supra). We have perused the order of the Mumbai Tribunal in the case of Buddhadev Educational Charitable Trust (supra) where under similar set of facts, the Tribunal has set aside the matter to the file of the Ld. CIT(E) for de-novo consideration of the assessee's application on merits taking into account the correct clause applicable to the assessee for registration u/s 12A of the Act.

10. Considering the totality of the facts and in the circumstances of the case and legal position enumerated above, we deem it fit and proper, to set aside the impugned order of the Ld. CIT(E) and restore the matter to his file with a direction to treat the application for grant of registration u/s 12A of the Act as filed under the correct section code and decide it afresh as per fact and law after affording reasonable opportunity of hearing to the assessee. Having held so, we also direct that the Ld. CIT(E) shall give an opportunity to the assessee to file the correct application, if needed and condone the delay/limitation, if any, in filing of the fresh application or

allow the assessee to rectify the application and then decide the same on merits *denovo*. The assessee is also hereby directed to remain vigilant and make its submissions on the appointed date without seeking any adjournment under any pretext unless required for the sufficient cause, failing which the Ld. CIT(E) shall be at liberty to pass appropriate order(s) as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 16th February, 2026.

Sd/-
(Manish Borad)
ACCOUNTANT MEMBER

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 16th February, 2026.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune