

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.2670/PUN/2025

Srushti Conservation Foundation, Ground Floor, Office No. 2, Lane No. 5, Chinar Heights, Prabhat Road, Deccan Gymkhana, Pune-411004 PAN : ABFCS2409E	Vs.	CIT – Exemption, Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Kishor B Phadke
Department by :	Shri Amit Bobde
Date of hearing :	12-02-2026
Date of Pronouncement :	16-02-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 16.09.2025 of the Ld. Commissioner of Income Tax (Exemption), Pune [**"CIT(E)"**] whereby he rejected the application of the assessee filed before him on 29.01.2025 in Form No. 10AB under sub-clause (ii) of clause (ac) of sub-section (1) of section 12A of the Income Tax Act, 1961 (**the "Act"**).

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

- “1. The learned CIT (Exemption), Pune erred in law and on facts in rejecting appellant's application for registration u/s 12A of ITA, 1961 by observing that, despite the "charitable intent" of Appellant, activities of Appellant are "profit oriented" and akin to "Implementing agencies".
2. The learned CIT (Exemption), Pune; ought to have appreciated that appellant's activities are charitable in nature & genuine, within the meaning of section 2(15) of the ITA, 1961. Appellant contends that, Appellant is not covered within the meaning of proviso to section 2(15) since, the proviso applies to "trade/commerce/business" activity per se and not to a yeomen philanthropic activity as that of the Appellant.

3. *Learned CIT(E) erred in law and on facts in considering margins of Appellant's financials and possession of reserves by the Appellant, as reasons for denial of registration u/s 12A of the ITA, 1961.*
4. *Appellant contends that, better reasonable opportunity of being heard ought to have been extended to the appellant, to submit the details / information. Appellant contends that, Appellant is keen to ensure complete and total compliance as so required, and the present situation is simply a fall-out of communication gap.*
5. *The learned CIT(Exemption), here erred in law and in facts in relying on the form of contractual agreements entered into by the appellant without going into the substance of the activities which were the subject matter of the said agreements.*
6. *Appellant craves leave to add, alter, clarify, explain, modify, delete any or all of the grounds of appeal, and to seek any just and fair relief."*

3. Briefly stated, the facts of the case are that the assessee is a section 8 not for profit organization, incorporated in January, 2021 with the primary objective of promoting research based conservation of biodiversity and ecosystems. It undertakes cutting edge conservation research for critical species, landscapes and marinescapes, promote Agro-biodiversity conservation, restoration of degraded habitats, promote ecosystem-based adaptation, focus on climate change adaptation and outreach, environmental education and awareness and provide sound scientific services for environmentally sustainable economic development. The assessee was granted provisional registration u/s 12A(1)(ac)(vi) for AYs 2021-22 to 2023-24 vide registration certificate dated 27.05.2021. Thereafter, regular registration certificate u/s 12A(1)(ac)(iii) was granted to the assessee on 30.09.2022. Thereafter, the assessee filed the present application for registration u/s 12A(1)(ac)(ii) of the Act in Form No. 10AB on 29.01.2025. On receipt of the said application along with annexures thereto, 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, the Ld. CIT(E) issued notice through ITBA portal on 25.02.2025 requesting the assessee to upload certain information/clarification contained therein, seeking compliance by 12.03.2025. On verification of the details submitted by the assessee, certain discrepancies were noticed by the Ld. CIT(E) which were communicated to the assessee vide show cause notice dated 01.05.2025 and 02.07.2025. The said discrepancies observed by the Ld. CIT(E) in para 4 of his order are reproduced below :

"(i) It is seen from your submissions that the trust is acting as an implementing agency to various projects which is akin to service provider or contractor. Please give specific details alongwith credible evidences of these activities carried out during the last 3 years / since inception (Project-wise) giving the category under which the activities fall in terms of provisions of Section 2(15) of the Income Tax Act, 1961."

4. The assessee was asked to file compliance to the above show cause notice(s) on 08.05.2025 and 09.07.2025 respectively. In response thereto, the assessee furnished its compliance on 08.07.2025 submitting as under :

"We understand the observation regarding our role as an implementing agency and wish to clarify that all our projects whether grant-funded, CSR-supported, consultancy-based, or self-financed are carried out strictly in line with our charitable objectives. Our activities fall within the meaning of "charitable purpose under Section 2(15) of the Income-tax Act"

5. The above reply of the assessee was not found to be acceptable by the Ld. CIT(E). The Ld. CIT(E) having dissatisfied about the charitable nature and the genuineness of the activities of the assessee trust, rejected the assessee's application treating the same as not maintainable without going into the merits of the case and without drawing any adverse interference against the assessee by observing as under :

"7. However, the claim of assessee as a non-profit organization (NPO) is not substantiated by its operational and financial activities. While the stated objectives suggest charitable intent, the contractual agreements and financial transactions indicate a structured commercial enterprise engaged in profit-oriented activities. The implementing agreement (vide agreement of contract dated 21/01/2021) entered into by assessee with other organisation explicitly classify the organization as a "Service provider or Contractor". The contractual agreements with the other party to the agreement clearly establishes that the organization is operating on a profit-oriented model. A genuine non-profit organization normally function on a cost-recovery or subsidized service model rather than engaging in profit-sharing arrangements. On analysis of profit & loss accounts, it is seen that for F Y ending at 31st March 2023, the gross profit is Rs 16.34 lakhs which is 18% & for the FY ending at 31st March 2024, the gross profit is Rs 45.86 lakhs which is 31%. thus, from the above it is clear that the activity of the trust is that of a implementing agency in form of service provider or contractor.

7.1 On verification of reserves & surplus it is seen that year wise surplus generated is as follows:

<i>FY</i>	<i>Reserve & surplus in Rs (Lakhs)</i>
<i>2020-21</i>	<i>1.67 Lakhs</i>
<i>2021-22</i>	<i>2.43 Lakhs</i>
<i>2022-23</i>	<i>17.76 Lakhs</i>
<i>2023-24</i>	<i>59.58 Lakhs</i>

It can be observed from the above table that the reserves/ surplus are increasing every year & these are not utilized by the assessee for its objects. Thus, from above it is clear that assessee trust is engaged in commercial activity with profiteering motive.

8. *Considering the above facts discussed in the show notice and discrepancies noticed, the undersigned is not satisfied about the charitable nature and 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.*

9. *In view of the above, the application filed by the assessee is treated as non-maintainable and hence, 'rejected' for statistical purposes without going into the merits of the case and no adverse inference is drawn against the assessee."*

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

7. The Ld. AR submitted that the assessee has already been granted registration u/s 12A of the Act (pages 51 to 54 of the paper book refers). He submitted that it is only at the time of application of renewal of regular registration in Form 10AB, the Ld. CIT(E) has doubted the charitable nature of the assessee trust. He submitted that the activities carried out by the assessee is per se a charitable activity and clearly falls within under the category of "preservation of environment (including watershed, forest and wild life)" u/s 2(15) of the Act. Further, to demonstrate the activities carried out by the assessee trust, the Ld. AR referred to the web page of the assessee trust containing the scope of work carried out by the trust.

8. Drawing support from the explanatory memorandum to Finance Bill, 2009, he submitted that the assessee's activities i.e. preservation of environment are of charitable nature and the same are not hit by the proviso to section 2(15) of the Act. He drew our attention to the following para of the explanatory memorandum to the Finance Bill, 2009. *"For the purposes of the Income-tax Act, "charitable purpose" has been defined in section 2(15) of the income-tax Act to include (a) relief of the poor. (b) education, (c) medical relief and, (d) the advancement of any other object of general public utility. However, the 'advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the*

nature of use or application, or retention of the income from such activity. It is now proposed to amend clause 15 of section 2 so as to separately list the preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest so that they would be excluded from the applicability of the aforesaid conditions which are applicable to the "advancement of any other object of general public utility".

9. Further, referring to pages 62 to 248 of the paper book, the Ld. AR submitted that the detailed submissions were made before the Ld. CIT(E) on objectives and activities of the trust, however, the Ld. CIT(E) has not considered the same while passing the impugned order.

10. Lastly, relying on the decision of the Ahmedabad Bench of the Tribunal in the case of ITO (Exemptions) Vs. Gujarat Environment Service Society in ITA No. 1233 and 2520/Ahd/2015 for AYs 2010-11 and 2011-12, order dated 25.10.2017, the Ld. AR submitted that under the similar set of facts as that of the assessee in the present case, the Tribunal has dismissed the appeal of the Revenue holding the activities carried out by the assessee to be charitable in nature falling within the ambit of "preservation of environment" and not under the "advancement of any other object of general public utility".

11. The Ld. DR relied upon the order of the Ld. CIT(E).

12. 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 is a section 8 not for profit company formed with the primary objective of promoting research based conservation of biodiversity and ecosystems. Its work focuses on habitat restoration, climate change mitigation and adaptation, agro-biodiversity, and environmental education, aimed at supporting ecologically sustainable development. It closely works with Government agencies, academic and research institutions, corporates, and civil society groups to address critical environmental issues. From the FY 2022 to 2025, the assessee has undertaken implementation of various environments based projects and additionally going to work towards implementation of projects that have

been approved for FY 2025-26, the details of which along with the supporting documents were duly submitted before the Ld. CIT(E) vide submissions dated 8th April, 2025 placed on pages 246 and 247 of the paper book. The assessee was granted provisional registration for the period from AYs 2021-22 to 2023-24 on 27.05.2021. The assessee's application for regular registration filed on 29.01.2025 has been rejected by the Ld. CIT(E) for the reasons reproduced in the preceding paragraphs. We find force in the arguments advanced by the Ld. AR that the activities of the assessee trust fall within the ambit of "preservation of environment" which is per se charitable in nature and it is outside the scope of 1st proviso to section 2(15) of the Act which is applicable in the case of those assessee's who fall within the category of "advancement of any other object of general public utility". The assessee has duly demonstrated the charitable nature of its activity as "preservation of environment" by the web page of the assessee trust as well as detailed submissions on objectives and activities of the trust which were filed before the Ld. CIT(E) (pages 62 to 248 of the paper book refers). Undisputedly, the assessee was earlier granted registration u/s 12A of the Act on 30.09.2022, a copy of which is placed on record on pages 51 to 54 of the paper book. However, at the time of reviewing the application for renewal of regular registration in Form 10B filed by the assessee on 29.01.2025, the Ld. CIT(E) has rejected the same not being satisfied by the charitable nature and genuineness of the activities of the assessee trust for the reasons stated in para 7 (reproduced above) of his impugned order. We find such approach of the Ld. CIT(E) not justifiable specifically considering the fact that the assessee in the past was granted registration u/s 12A and there is no change in the facts and circumstances of the case. We also find that in the case of Gujarat Environment Service Society (supra) under the similar set of facts, the Tribunal has decided the impugned issue in favour of the assessee and dismissed the appeal of the Revenue by observing as under :

"7. The ld.counsel for the assessee has pointed out that a bare perusal of this clause would indicate that the proviso is applicable on the expression "advancement of any other object of general public utility". The assessee is engaged in preservation of environment including watersheds, forests and wildlife etc. This activity in itself is for charitable purposes and it stands apart from "advancement of any other object of general public utility". Thus, the proviso is not applicable upon activities of the assessee. The ld.DR on the other hand relied upon the order of the AO.

8. As discussed above, objects of the assessee has been reproduced by the ld.CIT(A) in the finding extracted (supra). Main object of the assessee was for providing clean environment to the society, maintenance of garden,

plantation, horticulture etc. These objects and activities of the assessee were in the nature of charitable purpose, and as such accepted by the Revenue in the past. Exemption under section 11(1)(a) of the Act has been granted to the assessee in the past, and there is no change in the facts and circumstances. Registration granted under section 12A has not been cancelled. The activity of the assessee does not fall in the expression "advancement of any other object of general public utility". It is specifically fall within the ambit of "preservation of environment". The ld.CIT(A) has considered both these aspects and accepted explanation of the assessee that it is meant for preservation of environment as well as its objects are of charitable nature. The ld.CIT(A) has put reliance upon the judgment of the Hon'ble Gujarat High Court in the case of Ahmedabad Management System, 47 taxmann.com 162 (Guj). After considering well reasoned order of the ld.CIT(A) I do not find any reason to interfere in it. It is upheld. Both the appeals are dismissed."

13. Considering the totality of the facts and in the circumstances of the case and the legal position enumerated above, in our considered view, the activities carried out by the assessee are charitable in nature falling within the scope of section 2(15) of the Act under the category of preservation of environment and the Ld. CIT(E) should have been granted registration to the assessee u/s 12A of the Act. We, therefore, set aside the order of the Ld. CIT(E) and direct him to grant registration u/s 12A of the Act to the assessee. The grounds raised by the assessee are accordingly allowed.

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

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