

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH 'A', LUCKNOW**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND SHRI NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.26/LKW/2021  
Assessment Year: NA

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| <b>Hind Charitable Trust</b><br>Block B, Church Road, Indira<br>Nagar, Lucknow-226016. | Vs. | <b>PCIT(Central) Lucknow</b><br>Uttar Pradesh-226010. |
| <b>TAN/PAN:AAATH5498M</b>  |     |   |
| (Appellant)  |     | (Respondent)  |

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| Appellant by :  | Shri G. C. Srivastava, Advocate<br>Shri Kalrav Mehrotra, Advocate<br>Shri P. K. Tandon, C.A. |
| Respondent by : | Shri R. K. Agarwal, CIT (DR)   |

**ORDER**

**PER SUDHANSHU SRIVASTAVA, J.M.:**

This appeal has been preferred by the assessee against the order dated 19.02.2021 passed by the Ld. Principal Commissioner of Income Tax (Central) [hereinafter called the 'PCIT(C)'], Lucknow, wherein, vide the impugned order, the ld. PCIT(C) has exercised jurisdiction under Section 12AA (3) and Section 12AA (4) of the Income Tax Act, 1961(hereinafter called 'the Act') to cancel the registration previously granted to the Assessee under Section 12A of the Act. A critical facet of this

cancellation is its retrospective application, whereby the registration has been revoked with effect from 01.04.2007.

2.0 The brief facts of the case are that the Assessee Trust was originally granted registration under Section 12A of the Act vide the order of the Commissioner of Income Tax-I, Lucknow, dated 28.07.2006, effective from 01.04.2005. The Trust was established with charitable objectives and it operates the Hind Institute of Medical Sciences (HIMS), which conducts MBBS and paramedical courses, and the Hind Hospital, a teaching hospital providing medical treatment to patients.

2.1 A search and seizure operation was conducted under Section 132 of the Act on 31.07.2013, at the registered office of the Trust and the premises of its trustees, Dr. A.K. Sachan and Dr. Richa Mishra. During this search, physical cash, loose papers, and digital evidence in the form of hard disks were seized.

2.2 Based on this search, the Assessing Officer (AO) originally framed the assessment orders for Assessment Years (AYs) 2008-09 through 2014-15 on 31.03.2016, making substantial additions on the grounds of alleged unrecorded capitation fees,

inflated In-Patient Department (IPD) receipts, and violations of Section 13(1)(c) of the Act. Later, these original assessment orders were relied upon to form the basis and the satisfaction recorded by the Ld PCIT(C) in the impugned order to conclude that the activities of the Trust were not genuine. The Ld. PCIT (C) issued a show cause notice on 28.02.2018 requiring the assessee to show cause as to why the registration granted to the Trust u/s 12A of the Act should not be cancelled in view of the various findings recorded by the AO in the assessment orders.

2.3 The assessee filed a Writ Petition under Article 226 of the Constitution of India before the Hon'ble Jurisdictional High Court against the issuance of the above said show cause notice issued by the Ld. PCIT (C) but the said Writ Petition was dismissed by the Hon'ble Allahabad High Court vide order dated 11/04/2018 by declining to exercise its jurisdiction under Article 226 but left it open for the assessee to raise all the relevant pleas before the concerned authority.

2.4 Meanwhile, the Assessee challenged the original assessment orders before the Ld. Commissioner of Income Tax (Appeals), who confirmed the additions in November 2019.

2.5 The Ld. PCIT (C) duly took note of the dismissal of assessee's appeals by the Ld. Commissioner of Income Tax (Appeals) and, thereafter, vide order dated 19/01/2021 proceeded to pass the impugned order u/s 12AA (3) of the Act thereby cancelling the registration granted to the assessee u/s 12A of the Act w.e.f. 01/04/2007 i.e. with retrospective effect. The assessee is in appeal before us against this retrospective cancellation of registration and the following grounds have been raised by the assessee in its grounds of appeal:

*“1. The Ld. Principal Commissioner of Income-tax (Central), Lucknow, erred in withdrawing the registration granted u/s 12A retrospectively from 01.04.2007 on the alleged grounds that the activities carried on by the Appellant are not genuine and are not in accordance with the objects of the assessee.*

*2. The Ld. Principal Commissioner of Income-tax (Central), Lucknow, erred in withdrawing the registration granted u/s 12A retrospectively from 01.04.2007 on the alleged grounds that the activities carried on by the Appellant are not genuine and are not in accordance with the objects of the assessee.*

*3. That the conclusion drawn by Pr. CIT Central on the facts and circumstances of the case, is bad as he has solely relied on findings of the Ld AO given in the order of assessment for AY 2014-15, such findings being solely based on surmises and conjectures with no evidence and no material.*

*4. That the order of cancellation of Registration is bad in law and on facts as it has been passed solely and wholly relying on the order of assessment for AY 2014-15, which order was passed without considering the detailed submissions made by assessee including the reconciliation of the money received from students with those recorded in books of accounts (seized books of accounts in the form of Hard Discs which were not even looked into).*

*5. That the order of the Pr. CIT Central Lucknow is bad in law as there is complete failure on his part to make an independent application of mind before proceeding to cancel the registration.*

*6. That the appellant craves leave to adduce additional grounds and/or to amend or withdraw any of the foregoing grounds on or before the time of hearing of appeal.”*

2.6 The assessee has also raised the following additional ground:

*“Because on the facts and circumstances of the case and in law, impugned order dated 19.01.2021 is void ab initio as the Ld. Principal Commissioner of Income Tax (Central), Lucknow lacked the requisite jurisdiction to cancel the registration under section 12AA of the Act, a power exclusively vested in the Commissioner of Income Tax (Exemptions)”.*

3.0 For the sake of completeness, it is also worth mentioning that the assessee had approached the Income Tax Appellate Tribunal, (ITAT) Lucknow Bench challenging the orders passed

by the Ld. Commissioner of Income Tax (Appeals) confirming the additions made by the AO in AYs 2008-09 to 2014-15 and the ITAT, vide its orders dated 08.03.2021 in ITA Nos. 61-67/Lkw/2020, set aside the original assessment orders. The Co-ordinate Bench of this Tribunal held that the AO had failed to examine the seized electronic evidence (hard disks) which contained the Trust's books of account and had also failed to consider the detailed reconciliations provided by the Assessee and the matter was restored to the file of the Assessing Officer for a *de novo* assessment.

3.1 Pursuant to the Tribunal's directions, the AO passed fresh assessment orders under Section 143(3) read with Section 254 of the Act on 31.03.2023 for A.Y.s 2008-09 to 2014-15. For the sake of convenience and completeness, we refer to the subsequent assessment order for A.Y. 2008-09 wherein, after examining the digital evidence and the specific reconciliations regarding IPD receipts and building funds, the AO accepted the Assessee's explanations and deleted the additions relating to the inflated receipts. As far as the issue of capitation fee was concerned, no specific finding was recorded by the AO.

4.0 Coming to the present appeal before us, the assessee has challenged the action of the Ld. PCIT (C) in cancelling the registration of the assessee Trust retrospectively w.e.f. 01.04.2007.

4.1 The Ld. Authorized Representative (AR) of the Assessee, Shri G.C. Srivastava, Advocate submitted that the impugned order was bad in law in as much as the order cancelling the Registration was passed by placing sole reliance on the original assessment order for AY 2014-15 which had been passed without considering the detailed submissions made by the assessee including the reconciliation of the money received from the students and without even considering the fact that the hard discs seized had not been opened and looked into. The Ld. AR also submitted that the impugned order cancelling the registration was based on complete non-application of mind in as much as the satisfaction of the Ld. PCIT (C) was based on the erroneous findings of the AO only and there was no independent appreciation of facts by the Ld. PCIT (C). It was further submitted that the subsequent assessment orders, had exonerated the assessee Trust from most of the allegations leveled against it in the original assessment orders and this fact

was also to be duly considered in the present appeal. It was also submitted that the Act did not empower the Ld. PCIT (C) to cancel the registration with retrospective effect. He submitted that, thus, in effect, the assessee was challenging the impugned order on two counts namely: (i) the inherent lack of jurisdiction to cancel registration retrospectively and (ii) the collapse of the factual foundation on merits due to favourable subsequent assessment orders.

4.2 The Ld. AR submitted that the scheme of the Act, as interpreted by the Hon'ble Supreme Court and the various Hon'ble High Courts, does not confer upon the Ld. Principal Commissioner the power to revoke a registration with retrospective effect, thereby stripping a charitable institution of its status for past years during which it operated under a valid certificate. It was submitted that registration is a condition precedent for exemption, but the denial of exemption for a specific year does not automatically warrant the retrospective revocation of the registration certificate itself. The Ld. AR argued that the retrospective cancellation in the present case, effective from 2007, effectively ignores the assessments concluded in the intervening years where the Trust's status was

accepted. Our attention was drawn to Paragraphs 12.6 and 12.7 of the impugned order wherein the Ld. PCIT (C) has referred to the Special Leave Petitions (SLPs) admitted by the Hon'ble Apex Court in the case of PCIT, Central-1, Kolkata Vs. JIS Foundation 257 Taxman 553(SC) and in the case of Rama Educational Society 269 Taxman 368 (SC) and it was submitted that the Jurisdictional High Court in the case of Agra Development Authority v. CIT 90 taxmann.com 282 (All), is in favour of the assessee on the issue of retrospective cancellation of registration. The Ld. AR referred specifically to paragraphs 3, 50 and 51 in the order of the Hon'ble Allahabad High Court in the case of Agra Development Authority (supra) and also to the language contained in sections 12AA (3) and 12AA (4) of the Act and submitted that in the case of the present assessee, there is no allegation of having obtained the registration through fraud. It was argued that the Ld. Principal Commissioner was bound by the decisions of the Hon'ble Jurisdictional High Court, which has taken a strict view against retrospective cancellation. It was argued that in the case Agra Development Authority (supra), the Hon'ble Allahabad High Court has explicitly held that there is nothing in the language of Section 12AA (3) that suggests the

registration can be cancelled with retrospective effect. The Hon'ble High Court observed that the use of the words "*or have obtained registration at any time under Section 12A*" merely indicated the vesting of power to cancel old registrations, and not the power to cancel them from a past date.

4.3 The Ld. AR also drew our attention to the order passed by ITAT Chandigarh Bench in the case of St. Peter's Education Society Chandigarh vs. Principal CIT Central Gurgaon in ITA No. 370/Chd/2021 wherein vide order dated 27.02.2023, specifically in Para 27 of the said order, it has been held retrospective withdrawal of registration cannot be done. The Ld. AR argued that the impugned order penalizes the Trust for over a decade based on search findings from 2013, an action that violates the *ratio* laid down by the Hon'ble Karnataka High Court in the case of Director of Income Tax vs. Garden City Educational Trust in Income Tax Appeal No 57 of 2004 wherein it has been that the status of the entity must be respected until prospectively revoked in accordance with due process. Our attention was drawn to Para 16 of the above said order of the Hon'ble Karnataka High Court which states that registration was necessary for the purpose of exemption.

4.4 The Ld. AR further submitted that in order to appreciate the validity of the retrospective cancellation, it is imperative to take note of the legislative history of Section 12AA (3). It was argued that prior to 01.10.2004, there was no express provision in the Act empowering the Ld. Commissioner to cancel a registration once granted. This position was settled by the Hon'ble Supreme Court in Industrial Infrastructure Development Corporation (Gwalior) M.P. Ltd. v. CIT 403 ITR 1 (SC) wherein, the Hon'ble Supreme Court held that the power to grant registration is a quasi-judicial function, and that in terms the General Clauses Act, Section 21 does not confer an implied power to cancel such quasi-judicial orders. The express power to cancel was introduced only via the Finance (No. 2) Act, 2004, inserting Section 12AA (3) w.e.f. 01.10.2004. It was further submitted that the power to cancel a registration obtained under the old Section 12A (as was the case for many trusts registered prior to 1996) was introduced even later, by the Finance Act, 2010, w.e.f. 01.06.2010 whereas the assessee Trust was registered in 2006 and the Ld. Principal Commissioner has invoked Section 12AA(3) to cancel registration from 2007. The Ld. AR also referred to another

judgment of Hon'ble Madras High Court in the case of Auro Lab v. ITO 411 ITR 308 (Mad) and submitted that the jurisprudence emerging from the Hon'ble High Courts, specifically the Hon'ble Jurisdictional High Court of Allahabad and the Hon'ble Madras High Court, uniformly holds that this power cannot be exercised retrospectively. The Ld. AR also submitted that the various judicial precedents being relied upon by the assessee have been filed in the form of Paper Book and prayed that the same may duly be considered while adjudicating the appeal.

4.5 The Ld. AR further submitted that the second prong of assessee's arguments was on the merits of the cancellation. It was submitted that the Ld. Principal Commissioner's order is founded entirely on the factual findings recorded by the Assessing Officer in the original assessment orders dated 31.03.2016 wherein it was alleged that the Trust was charging capitation fees, inflating IPD receipts to launder cash, and was allowing the trustees to divert funds. It was submitted that, however, these findings have been conclusively obliterated by the subsequent judicial and administrative proceedings. The fresh assessment order passed on 31.03.2023, pursuant to the Tribunal's directions, has accepted the genuineness of the

Trust's activities and deleted the very additions that formed the basis of the PCIT's "satisfaction". The Ld. AR submitted that when the search took place on 31.07.2013, the Investigation Wing seized hard discs and laptops containing the Trust's digital books of account and patient records. The Assessee consistently maintained that these digital records contained a complete reconciliation of the receipts and that no unaccounted capitation fees existed. However, during the original assessment proceedings in 2016, the AO failed to open or examine these hard discs. It was submitted that the assessment was completed in great haste, with the Revenue providing copies of seized documents to the Assessee only months before the deadline, and the AO ignoring the partial reconciliations filed. It was submitted by the Ld. AR that upon appeal, the Tribunal, in its order dated 08.03.2021, took serious note of this lapse. The Tribunal set aside the original assessments specifically because the "*Assessing Officer also did not take into account the data contained in the hard disks*". The Tribunal thereafter remitted the matter for fresh assessment with a specific direction to consider the data in the hard disks and the Assessee's reconciliation. This judicial intervention effectively nullified the

original assessment orders. Consequently, the Ld. PCIT's order, which was passed in January 2021 relying entirely on the findings recorded in the assessment order of 2016, was effectively nullified.

4.6 The Ld. AR stated that subsequently, in compliance with the Tribunal's order, the AO initiated a *de novo* assessment. The seized hard discs were finally opened on 30.06.2021, and the data was provided to the Assessee for reconciliation. The Assessee submitted a detailed, point-wise reconciliation of the alleged capitation fees and IPD receipts against the digital records and in the fresh assessment order dated 31.03.2023, the AO systematically reversed the adverse findings of the original assessment.

4.7 The Ld. AR took us through the relevant portions of the subsequent assessment order for AY 2008-09 and demonstrated that effectively, the issues flagged by the AO in original assessment proceedings had been suitably addressed and explained by the assessee thereby requiring no further action and, thus, the stand of the assessee was justified and the very foundation of the order cancelling registration with

retrospective effect stood demolished. The Ld. AR also furnished a chart of the issues before the AO during the subsequent assessment proceedings and their outcome.

4.8 The Ld. AR also submitted that only violation of section 13(1)(c) of the Act will not empower the Ld. PCIT (C) to cancel the registration with retrospective effect and further, if all the receipts have been found to be duly recorded in the books of account, including the cash found during the course of search, the provisions of section 13 of the Act will not be attracted.

4.9 The Ld. AR prayed that since both on facts and also as per law, the retrospective cancellation was not valid, the impugned order be set aside.

5.0 Per contra, the Ld. CIT DR Shri R.K. Agarwal refuting the arguments of the Ld. AR submitted that the Ld. PCIT (C) has given his categorical findings based on the assessments framed subsequent to the search and the findings and observations of the AO cannot be ignored. It was argued that even if subsequently some issues came to be decided in favour of the assessee, the Ld. PCIT (C) was perfectly justified in invoking his power to cancel the registration at that point of time. The Ld.

CIT DR sought to distinguish the various judicial precedents relied upon by the Ld. AR by submitting that the assessee's registration was cancelled as a natural consequence of the various irregularities noticed during the course of search whereas in the cases relied upon by the Ld. AR, the cancellation was not as a result of search on those particular assessees.

5.1 The Ld. CIT DR prayed for dismissal of the assessee's appeal.

6.0 We have heard the rival submissions and have also perused the material on record. The essential question raised by the assessee before us is as to whether the act of the Ld. PCIT (Central), Lucknow in cancelling assessee's registration under section 12AA of the Act with retrospective effect w.e.f. 1.04.2007 can be held to be legally valid and sustainable. The ld. Authorized Representative for the assessee has argued at length citing before us the statutory provisions of sections 11, 12 and 13 of the Act and has also placed reliance on numerous judicial precedents and has argued that the impugned action of the ld. Ld. PCIT (Central), Lucknow cannot be held to be legally valid in absence of want of powers to cancel the registration with

retrospective effect. It has been argued that the denial of exemption for a particular assessment year would not automatically warrant the retrospective cancellation of the registration itself. Reliance has been placed on the judgment of jurisdictional High Court i.e. Hon'ble Allahabad High Court in the case of Agra Development Authority (supra) and it has been submitted that there was nothing in the language of section 12AA(3) of the Act which would suggest that the registration of the assessee may be cancelled with retrospective effect. It has been submitted that the use of words '*or have obtained a registration at any time under section 12A of the Act*' added by amendment w.e.f. 01.06.2010 only indicates that the Commissioner was vested with the power to cancel the registration that may have been granted to an assessee at any time prior to the said amendment itself. However, it does not indicate that thereby the Commissioner had been empowered to cancel the registration of the assessee with retrospective effect i.e. with effect from the date prior to the date of issuance of the order / notice to cancel the registration. The Id. Authorized Representative has also drawn our attention to paragraph 51 of the above said judgment of the Hon'ble Allahabad High Court

wherein it has been laid down that the act of cancellation of registration has serious civil consequences and that in absence of any legislative intent expressed to suggest that the Legislature had empowered the Commissioner to cancel the assessee's registration under section 12A of the Act with retrospective effect, such power could not be deemed to exist or arise or be exercised to unsettle closed / part transactions especially because in this case, the ground for cancellation had not arisen out of allegation of fraud, collusion or misrepresentation.

6.1 It is our considered view that the dicta laid down by the Hon'ble jurisdictional High Court in the case of Agra Development Authority (supra) squarely covers the case of the assessee. It is seen that the Hon'ble Allahabad High Court was specifically answering the question raised before it in the case of Agra Development Authority and as appearing in paragraph 3 of the above said order wherein the question posed before the Hon'ble Allahabad High Court was that, *"Whether, even otherwise the ITAT Agra could have set aside the order passed under Section 12-AA(3) of the Act in entirety though admittedly the provision of Section 12- AA (3) of the Act (as applicable) was*

*incorporated w.e.f. 01.06.2010 and notice under Section 12-AA(3) of the Act was first issued to the assessee much later on 06.03.2012? . While examining and thereafter answering the question posed before it, the Hon'ble Allahabad High Court came to the conclusion that undisputedly the registration had been granted much prior to the amendment and, therefore, on the date of grant of registration to the assessee, it was fully eligible for registration and further the registration thus granted did not suffer from any inherent or fundamental defect. The Hon'ble Allahabad High Court further observed that thereafter the assessee had continued to avail the benefit of registration for all the assessment years subsequent to the grant of registration and, therefore, such a registration order cannot be allowed to be cancelled with retrospective effect so as to effect past transactions and that too in absence of any express legislative intent and without any adverse inference being first drawn against the assessee. The Hon'ble jurisdictional High Court also went to observe that the Act, therefore, neither contemplates an inviolable right to claim exemption solely on the strength of a registration certificate nor does the Act appear to contemplate that in case of an adverse opinion being formed*

by the Commissioner, he must necessarily seek to cancel the registration granted by him earlier. In fact, the Act carves out a middle path by allowing the registration to stand but its benefit to be deprived in assessment proceedings in certain specified circumstances.

6.2 Similarly, the Hon'ble Rajasthan High Court in the case of Indian Medical Trust vs. Pr. CIT, Jaipur (2019) 108 taxman.com 93 (Rajasthan) has taken a similar view and has held that the provisions of section 12AA (3) empower the Commissioner to initiate steps for cancellation of the registration of a trust, but the Legislature had no intention of giving the said provision a retrospective effect and for in such a situation, the same would have been clearly specified in the said provision. It was held by the Hon'ble Rajasthan High Court that the interpretation of the said provision has to be harmonious rather than being prejudicial to the institutions as it would instigate and create a fear of Income Tax Department. While reaching such a conclusion, the Hon'ble Rajasthan High Court has also referred to the judgment rendered by the Hon'ble Allahabad High Court in the case of Agra Development Authority (supra).

6.3. Similarly, in case of Pacific Academy of Higher Education and Research reported in 2023 (1) TMI 1283 - ITAT Jodhpur, it was held that the cancellation of registration retrospectively was not valid and the issue was decided in favour of the assessee.

6.4 The Hon'ble Madras High Court in the case of Auro Lab vs. ITO (2019) 109 taxmann.com 225, the Hon'ble Madras High Court came to the conclusion that the amendment to section 12AA (3) of the Act was prospective and not retrospective in nature. The Hon'ble Madras High Court reasoned that even when the Parliament had plenary powers to enact retrospective legislation in matters of taxation, the amended section is not seen to have explicitly provided to have a retrospective character or intent and therefore, without specific mention of the amended provisions to operate retrospectively, the cancellation cannot operate from a past date. The Hon'ble Madras High Court further observed that on the question of effective date of operation of the cancellation order, the cancellation would take effect only from the date of order / notice of cancellation of registration. Applying the ratio of Auro Lab (supra) to the present case, the Ld. Principal Commissioner's order dated 19.01.2021, could, *at best*, be

effective prospectively from that date. Cancelling it from April 1, 2007, is a direct violation of the statutory interpretation settled by the Hon'ble Courts.

6.5 Similarly, the ITAT Pune Bench in the case of M.M. Patel Public Charitable Trust vs. PCIT (Central) in ITA No. 1130/PUN/2024, vide order dated 21.02.2025 held as under: -

*"15c. It is also a settled issue that the registration W's 1244 cannot be cancelled from retrospective effect For this view we place reliance on the judgment of Hon'ble Madras High Court in the case of Auro Lab v. ITO (2019) 102 taxmann.com 225 dated 23.01.2019 wherein Hon'ble Court held that "Since the act of cancellation of registration has serious civil consequences and the amended provision is held to have only a prospective effect the effect of cancellation, in the event the pending Tax Appeal is decided in favour of the Revenue, will operate only from the date of the cancellation order, that is 30.12.2010. In other words, the exemption cannot be denied to the petitioner for and up to the Assessment Year 2010-11 on the sole ground of cancellation of the certificate of registration" (emphasis supplied).*

*15d. In view of the above discussion with regard to ground no 12 & 6 of the assessee's appeal, in light of the judgments and decisions referred herein above settled and judicial principles, we are of the considered view that firstly, Ld. Pr.CIT erred in cancelling the registration with retrospective effect from 01.04.2008 and secondly, we are also of the view that Ld. Pr. CIT erred in cancelling the registration u/s 12AA(3) and 124A(4) of the Act without placing any material evidences which could indicate that the assessee society was not running for the charitable objects for which it was established and*

*nor any doubt has been raised about genuineness of the activities carried out by the assessee society with regard to imparting of education and carrying out charitable activities. So far as the issue arising out of the loose papers is concerned in this case alleging that the fund of the assessee society have been misappropriated by the members of the society or there is any ambiguity in the claim of expenses, it can well be taken care of at the time of assessing the income and if needed the additions can be made to the income of the assessee and the same should be restricted only to the issue involved. However in no case the remaining income of the trust/society should be affected by way of denying the benefit of exemption u/s 11 & 12 of the Act. We accordingly allow ground no. 12 & 6 of the assessee's appeal."*

6.6 Thus, on an overall view of the judicial precedents as discussed above and respectfully following the same, we observe that the scheme of the Act, as interpreted by the Hon'ble Supreme Court and various Hon'ble High Courts, does not confer upon the Commissioner the power to revoke a registration with retrospective effect, thereby stripping a charitable institution of its status for past years during which it operated under a valid certificate. Our observation is rooted in the principle that registration is a condition precedent for exemption, but the denial of exemption for a specific year does not automatically warrant the retrospective revocation of the registration itself. The jurisprudence emerging from the Hon'ble

High Courts, specifically the Jurisdictional High Court of Allahabad and the Madras High Court, uniformly holds that this power cannot be exercised retrospectively. Accordingly, we accept the arguments raised by the Ld. AR in this regard and hold that the Ld. PCIT (C) could not have validly cancelled the registration of the assessee with retrospective effect and we direct restoration of the same.

6.7 Before parting we would also like to consider the merits of the issue vis-a-vis the reliance placed by the Ld. PCIT (C) on the search assessment orders and its relevance post the passing of subsequent assessment orders after the original assessment orders were set aside by the ITAT for de novo assessment.

6.8 Insofar as the findings on capitation fee were concerned, we find that the AO in the subsequent assessment order did not give any finding whatsoever, despite examining all seized material, but instead chose to make addition by merely reiterating the contents of the original assessment.

6.8.1 During the course of hearing, the following tabular representation was submitted by the Ld. AR to summarize and

show the transformation of facts from the Original Assessment (relied upon by the Ld. PCIT) to the fresh assessment-

| <b>Issue</b>                    | <b>Original Assessment</b>  | <b>PCIT's basis for cancellation</b>  | <b>Fresh Assessment Findings</b>  | <b>Impact on cancellation</b>   |
|---------------------------------|---|---|---|---|
| Capitation Fees / Building Fund | Alleged collection of unaccounted cash as donation or building funds.                             | Cited the findings in original assessment as evidence of non-genuine activity and profiteering. | The AO merely followed the earlier findings and did not examine the evidence that was directed to be examined.  | The allegation of unaccounted capitation fees has merely been reiterated in complete violation of the findings of the Hon'ble ITAT. |
| Inflated IPD receipts           | Alleged inflation of hospital receipts to launder cash.   | Cited as money laundering tactics and colourable device to introduce cash.                      | The AO examined date-wise receipts from the seized hard disk. Found receipts were genuine and matched bed/OT charges. Accordingly, no adverse view taken. | The receipts are accepted as genuine income from charitable activity.   |
| IPD Expenditure                 | Disallowance of expenses corresponding to inflated receipts                                       | Used to argue that the Trust was fabricating expenses to reduce surplus.                        | Since receipts were held genuine, the corresponding expenditure was also accepted. Accordingly, no adverse view taken.                                    | The financial integrity of the Trust's accounts is restored.  |
| General Genuineness             | It was thus concluded in the original assessment proceedings that the activities were not genuine | The registration granted to the Assessee-Trust was cancelled based on these findings.           | The AO accepted the reconciliations and the books of account.   | The factual premise of non-genuine activity, therefore no longer exists.  |

| Issue | Original Assessment           | PCIT's basis for cancellation | Fresh Assessment Findings | Impact on cancellation |
|-------|-------------------------------|-------------------------------|---------------------------|------------------------|
|       | based on the above additions. |                               |                           |                        |

6.9 Upon a thorough consideration of the impugned order, we find that it relies erroneously on the findings of the original 2016 assessment. As noticed above, these findings were not only set aside by this Tribunal but were effectively dismantled in the fresh assessment order dated 31.03.2023.

6.10 Pivotal and crucially, on the issue of capitation fee, the AO has not rendered any findings whatsoever, but has merely reiterated the original assessment in clear violation of the Tribunal's specific directions. There is not a word on capitation fee in the findings of the AO in the subsequent assessment order. We find that the AO, while rendering finding on the issue of 'Excess of Income over Expenditure' has simply extracted the text from the set-aside and nullified order which alleged violation of Section 13(1)(c)(ii) and has proceeded to make the addition.

6.11 As a sequitur, we find that the Ld. Principal Commissioner's reliance on alleged violations of Section 13 is misplaced, as these allegations find no mention in the subsequent assessment order. Consequently, the impugned Order stands

legally vitiated. Furthermore, the Assessee maintains that a violation of Section 13, even if proven, does not provide a statutory basis for the cancellation of registration.

6.12 That, insofar as AYs 2012-13 and 2014-15 are concerned, the AO has made specific additions to the tune of Rs. 35,05,000/- and Rs. 28,50,000/- under Section 68 of the Act by holding that the Assessee was charging capitation fee. However, the analysis of the findings of the AO on this issue, show that he has merely reiterated the nullified findings in the original assessment. While this Tribunal had directed the AO to have a fresh look at the evidence, the AO has rather thought it fit to merely repeat, albeit mechanically, the original additions without conducting any independent verification (such as bank inquiries or third-party confirmations) that a de novo enquiry demands. Such finding by the AO cannot be held to support the findings of the Ld. PCIT in the impugned order by which registration has been cancelled retrospectively.

6.13 Therefore, we find that the satisfaction recorded by the Principal Commissioner was entirely derivative, stemming from the adverse findings of the original assessment orders of

2016. Those assessment orders have been set aside by this Tribunal, and the subsequent fresh assessment orders passed in 2023 have categorically accepted the Assessee's activities as genuine. The AO has deleted the additions regarding inflated IPD receipts after a thorough verification of the seized digital evidence. Furthermore, the AO has not rendered any findings on the issue of capitation fee, or specified violation of Section 13 of the Act and has, by way of a single sentence, chosen to reiterate the findings in the original assessment, under the head 'Excess of Income over Expenditure' Further, insofar as AY 2012-13 and 2014-15 are concerned, the AO has while seeking to make an addition under Section 68 of the Act on the issue of capitation fee, has merely reiterated the findings in the original assessment rather than conduct any fresh enquiry as mandated by this Tribunal.

6.14 Therefore, in light of the comprehensive analysis of the law and facts presented above, we find that the impugned order of cancellation is unsustainable on both legal as well as factual grounds.

6.15 We are conscious of the fact that the Assessee that it has been providing medical education and healthcare services since

2006. The continued validity of its registration is essential for its survival and its ability to serve the public. The Revenue cannot be permitted to maintain a cancellation order based on suspicions that its own AO has found to be baseless upon proper verification. Accordingly, we find it fit to quash and set aside the impugned order of the dated 19.01.2021 cancelling the registration of the Appellant Trust under Section 12AA(3)/(4) of the Act. The registration granted to the Appellant Trust under Section 12A vide order dated 28.07.2006 is therefore restored with all consequential benefits.

7. In the final result, the appeal of the assessee stands allowed.

(Order pronounced in the open court on 27/02/2026)

**Sd/-**  
**(NIKHIL CHOUDHARY)**  
**ACCOUNTANT MEMBER**

Dated: 27/02/2026

sh

**Sd/-**  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

**Copy of the order forwarded to:**

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow