

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.280/Ind/2025
(AY: 2024-25)

Engineers Combine Education Society, Gupta Building, Hospital Road, Gwalior, (PAN:AAATE3194D)	<u>बनाम/</u> Vs.	CIT(Exemption) Bhopal
(Appellant)		(Respondent)
Assessee by	Shri Sanjay Sodani, AR	
Revenue by	Shri Anup Singh, CIT-DR	
Date of Hearing	26.03.2026	
Date of Pronouncement	10.04.2026	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[herein after referred to as the Act for the sake of brevity] before this tribunal. The Assessee is aggrieved by the order bearing No:- ITBA/EXM/F/EXM45/2024-25/1065872187(1) dated 20.06.2024 passed by the Ld. CIT(E) which is hereinafter referred to as the "**Impugned order**".

2.

Factual Matrix

2.1 That the assessee is a charitable educational society, registered under the societies registration Act vide registration no.02/42/01/11150/07 and was granted registration under section 12A of the Income Tax Act in the year 2011, which continued uninterrupted for several years.

2.2 That the assessee society is engaged in the charitable educational activities mainly running a nursing education institution duly approved by the competent state authorities.

2.3 That pursuant to the amendment in the income Tax Act, 1961, the assessee applied for regular registration u/s 12AB in the form no.10AB within the prescribed time.

2.4 However during the pendency of the aforesaid application, the state government of M.P. imposed a complete ban on the nursing admission for the academic years 2023-24 uniformly to all the nursing institution across the state.

2.5 That the Ld. CIT(E) before adjudging the issue of registration however directed a physical verification which

was conducted without prior intimation to the assessee and during the vacation period (June 2024) in the absence of secretary or authorised office bears, of the assessee.

2.6 **Basis** solely on an inspector's report, **which was never provided to the assessee society** the Ld. CIT(E) passed the "**Impugned Order**" rejecting the application u/s 12AB and cancelling the provisional registration earlier granted under section 12AB. That the assessee is now aggrieved by the impugned order & hence the appeal before this Tribunal.

2.7 The **core reasons** for the rejection of application of the assessee filed in the form 10AB for the grant of the registration u/s 12AB of the Act which was rejected by the impugned order **& so also the provisional registration/approval u/s 12AB in the form 10AC vide URN No.AAATE3194KE20206 dated 27/05/2021** granted by CPC, was also cancelled by virtue of section 12AB(1)(b)(ii)(B) of the Act, **are** as under which we reproduce as below:-

Annexure (mentioned in row-9 above)

The assessee has applied in Form 10AB for registration u/s 12AB under the new provision of Income Tax Act, 1961. Consequently, opportunity letters were issued to the assessee and various documents/details were called for, to process the said application and to verify the objects and activities of the assessee.

2. In response to the notices, assessee has submitted his reply with relevant documents which were placed on record. On perusal of documents, it is noticed that the assessee has claimed activities of running a nursing college.

3. To verify the activities of the assessee, directions for physical verification was issued to ITO(E), Gwalior on 12.06.2024 to submit the physical verification report regarding registration u/s 12AB of the IT Act. The ITO (E), Gwalior has submitted the physical verification report of Inspector on 19.06.2024.

5. On perusal of reply of the assessee and physical verification report of the Income Tax Inspector, the following points are noticed:

1. The Inspector visited at the address of society for physical verification but no banner or Board of the society was found there, though accountant Shri Ram Gopal Singh was present there.

2. The society is forced to close its admission from 2023-24 since NOC for the renewal of the same has not been granted by the MP Govt.

3. As per the report, at the premise of nursing college no proper sitting arrangements were found and there was not adequate space for students. In addition to that labs and experiment room are found shabby and full of dirt and non functional.

4. It is also noticed that space allotted to the society by lease agreement with secretary of society is partly occupied by the private firm namely Engineer combine (A Related Party) which is engaged in CCTV/telecom business.

5. Further, no charitable activities could be verified.

6. The society failed to produce book of accounts at the time of verification.

5. Considering the facts of the case, the application of the assessee filed in. Form 10AB for grant of registration u/s 12AB of the Act is hereby rejected and the provisional registration/approval u/s 12AB in Form 10AC vide URN No.

AAATE3194KE20206 dated 27.05.2021 granted by CPC is also hereby cancelled as per the provisions of section 12AB(1)(b)(ii)(B) of the Act."

2.8 The Assessee being Aggrieved by the "**Impugned Order**" has preferred the instant second appeal before this Tribunal and has raised the following grounds of appeal in the form No. 36 against the "**Impugned Order**" which are as under:-

"1. That on the facts and circumstances of the Case and in law & in any view of the matter, the Ld. CIT (E) has erred in not granting the Registration u/s 12AB of the Income Tax Act 1961, by rejecting the application u/s 12AB of the Income Tax act 1961.

*2. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. CIT (E) has erred in rejecting the application u/s 12AB of the Income Tax Act, 1961 seeking registration u/s 12AB of the Income Tax Act, 1961 merely based on report of Income Tax Inspector **without giving reasonable and proper opportunity of hearing.***

3. That, the applicant craves leave to add, amend, alter and/or modify before and/or at the time of hearing."

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 26.03.2026 when the Ld. AR for & on behalf of the Assessee appeared before us & interalia contented that the "**Impugned Order**" is bad in law, illegal & not Proper. It is passed in the violation of the principles of natural justice. It therefore deserves to be set aside. The Ld. AR for the on

behalf of the assessee has placed on the record of this Tribunal groundwise submissions [two pages] on the behalf of the assessee which is reproduced by us as below:-

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Document*

BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL
In the case of:
Engineers Combine Education Society
PAN: AAATE3194K
Assessment Year: 2023-24

GROUND-WISE SUBMISSIONS ON BEHALF OF THE ASSESSEE
(Along with Judicial Precedents)

Ground No. 1

That on the facts and circumstances of the case and in law, the Ld. CIT(E) has erred in not granting registration u/s 12AB of the Income Tax Act, 1961.

Submissions of the Assessee

It is respectfully submitted that the assessee society is engaged in charitable activities in the field of education and its objects are undisputedly charitable within the meaning of section 2(15) of the Income Tax Act, 1961.

At the stage of granting registration u/s 12AB, the scope of enquiry is **limited only to the examination of the objects of the trust and the genuineness of activities**. The learned CIT(E) has exceeded jurisdiction by rejecting registration without pointing out any defect either in the objects or in the genuineness of activities.

It is further submitted that the **actual application of income or alleged violation of sections 11 or 12 cannot be examined at the stage of registration** and the same falls within the domain of assessment proceedings.

Judicial Support

- **CIT v. Ananda Social & Educational Trust**
(2020) 426 ITR 340 (SC)
The Hon'ble Supreme Court held that at the stage of registration, the Commissioner is required to examine only the **genuineness of activities and objects**, and not the application of income.
- **CIT(E) v. Bhopal Education Society**
(ITAT Indore Bench)
Registration cannot be denied merely on presumptions or surmises without bringing any adverse material on record regarding non-genuine activities.
- **DIT(E) v. Garden City Educational Trust**
(2011) 191 Taxman 238 (Karnataka HC)
Examination of income or alleged violation of section 11 is beyond the scope of registration proceedings.

Thus, the rejection of registration u/s 12AB is arbitrary, illegal, and liable to be set aside.

Ground No. 2

That the Ld. CIT(E) has erred in rejecting the application u/s 12AB merely on the basis of an Inspector's report without affording reasonable opportunity of being heard.

Submissions of the Assessee

It is respectfully submitted that the impugned order has been passed in complete violation of the **principles of natural justice**. The reliance placed on the Inspector's report, without supplying the same to the assessee or granting an opportunity to rebut the findings, vitiates the entire proceedings.

The learned CIT(E) has failed to independently apply his mind and has mechanically relied upon a third-party report, which is impermissible in law.

Judicial Support

- **Andaman Timber Industries v. CCE**
(2015) 281 CTR 241 (SC)
Any order passed without granting opportunity to rebut material relied upon is violative of natural justice and liable to be quashed.
- **CIT(E) v. Shree Shyam Mandir Committee**
(ITAT Indore Bench)
Registration u/s 12AA/12AB cannot be denied solely on the basis of an Inspector's report without confronting the assessee with adverse material.
- **Udit Educational Society v. CIT(E)**
(2019) 176 ITD 604 (Delhi ITAT)
Reliance on Inspector's report without granting opportunity of cross-examination or rebuttal is legally unsustainable.

Hence, the impugned order deserves to be quashed on this ground alone.

Ground No. 3

**That the appellant craves leave to add, amend or modify the grounds of appeal.
Submissions of the Assessee**

This ground is general in nature. The assessee respectfully seeks liberty from the Hon'ble Bench to raise additional grounds or make suitable modifications, if required, during the course of hearing.

PRAYER

In view of the above facts, submissions, and judicial precedents, it is most humbly prayed that the Hon'ble Tribunal may kindly:

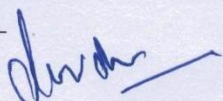
- cel.
1. Set aside the order passed by the Ld. CIT(E);
 2. Direct grant of registration u/s 12AB of the Income Tax Act, 1961 to the assessee; and
 3. Pass such other order(s) as deemed fit in the interest of justice.

Filed by:

For Engineers Combine Education Society
Authorized Representative

Date: _____

Place: Indore



3.2 The Ld. AR has also placed on the record of this Tribunal a written submission [A three pages documents with 3

enclosures [News paper's clippings] which is reproduced by
us as below:

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2170

BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL /6.12.25
INDORE BENCH, INDORE

In the matter of:
ENGINEERS COMBINE EDUCATION SOCIETY — Appellant

Vs.
The Commissioner of Income Tax (Exemption), Bhopal — Respondent

Appeal No.: ITA No. 28/IND/2025
Assessment Year: 2024-25

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document
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WRITTEN SUBMISSION ON BEHALF OF THE APPELLANT

1. Brief Background and Facts

1. The appellant is a **charitable educational society**, duly registered under **Section 12A of the Income Tax Act, 1961** since **2011**, bearing Registration No. **02/42/01/11150/07**.
2. The society is engaged in **charitable educational activities**, particularly in the field of **nursing education**, and has been running its institution continuously for more than a decade.
3. The appellant applied for **renewal/registration under Section 12A/12AB** within the prescribed statutory time.
4. The Learned **CIT (Exemption)** rejected the application solely relying upon an **Inspector's report**, alleging that activities were not genuine and not carried out at the stated address.
5. The Inspector visited the premises **without prior notice and without the presence or knowledge of the Secretary or authorized office bearers**, and his report was **never furnished** to the appellant for rebuttal.

2. Inspector's Report is Factually Incorrect and Misleading

1. The Inspector alleged absence of signboard, infrastructure, seating arrangements and laboratories.
2. The appellant respectfully submits that:
 - o The society is a **long-established institution**, running at the same premises since **2011**, duly recognized by State authorities.

- Nursing training activities, infrastructure, laboratories and seating arrangements have existed and were functional prior to the government-imposed restrictions.
3. The inspection was conducted during **June 2024**, which is a **vacation period**, and therefore the absence of students or regular activity cannot be construed as non-genuine activity.

3. Government-Imposed Ban on Nursing Admissions – Beyond Appellant's Control

1. The appellant had already been sanctioned **50 nursing seats** by the State Government.
2. However, due to **serious irregularities at the State level**, the **Government of Madhya Pradesh imposed a complete ban on nursing and paramedical admissions for the academic years 2023-24 and 2024-25 across the entire State**, affecting **all nursing colleges uniformly**.
3. This fact is a **matter of public record**, widely reported in leading newspapers such as **Dainik Bhaskar**, copies of which are filed on record.
4. Further, the **Hon'ble Madhya Pradesh High Court** has passed orders **continuing the stay on grant of recognition and admissions in nursing and paramedical colleges until completion of investigation**, as reported in the newspapers dated **22-06-2023 and 25-07-2025**.
5. Thus, **non-conduct of admissions or limited activity during the relevant period was solely due to government and judicial restraints**, and **cannot be a ground to doubt the genuineness of charitable activities**.

4. Violation of Principles of Natural Justice

1. The impugned order is passed in **gross violation of principles of natural justice**, as:
 - The **Inspector's report was never supplied** to the appellant.
 - No opportunity was given to **explain, rebut, or cross-examine** the contents of the report.
2. It is a settled legal position that **any adverse material relied upon must be confronted to the assessee**.

Judicial Reliance:

- **ITO vs. M. Pirai Choodi** (2011) 334 ITR 262 (SC)
- **Sahara India (Firm) vs. CIT** (2008) 300 ITR 403 (SC)
- **CIT (Exemption) vs. Agra Development Authority** (2021) 438 ITR 636 (All.)

All these judgments categorically hold that **orders passed without providing relied-upon material are invalid in law**.

5. Genuineness of Activities – Scope of Enquiry u/s 12AB

1. At the stage of registration under **Section 12A/12AB**, the authority is required to examine only:
 - o **Objects of the trust**, and
 - o **Genuineness of activities**, not the **quantum or temporary suspension of activities due to external factors**.
2. Temporary suspension caused by **government orders or court directions** does not **render activities non-genuine**.
3. The appellant has already furnished:
 - o Audited financial statements
 - o Registration documents
 - o Past approvals and activity records
4. No adverse finding exists regarding misuse of funds or deviation from charitable objects.

6. Inspector's Report Cannot Override Documentary Evidence

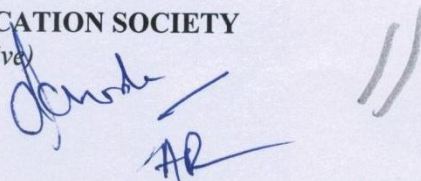
1. An **ex parte, surprise inspection** conducted during vacation period, without notice and without sharing the report, **cannot override statutory documents and long-standing registration**.
2. The Learned CIT (Exemption) failed to consider:
 - o Publicly available facts
 - o Judicial orders
 - o Government restrictions
3. Hence, the impugned order is **arbitrary, mechanical and unsustainable**.

7. Prayer

In view of the above facts, legal position and judicial precedents, the appellant most respectfully prays that the Hon'ble Tribunal may kindly:

1. **Quash and set aside** the impugned order passed by the Learned CIT (Exemption), Bhopal;
2. **Direct grant of registration under Section 12A/12AB** to the appellant society;
OR IN THE ALTERNATIVE,
3. **Remand the matter back** to the Learned CIT (Exemption) with a direction to:
 - o Supply the Inspector's report,
 - o Grant proper opportunity of hearing, and
 - o Decide the matter afresh in accordance with law and principles of natural justice.

For the Appellant
ENGINEERS COMBINE EDUCATION SOCIETY
(Through Authorized Representative)



3.3 The Ld. AR has also placed on the record of this Tribunal **a paper book** containing pages 1 to 139 in support of the assessee's case.

3.4 Basis above documents & paper's it was contended by the Id. AR that the **"Impugned order"** of the Ld. CIT(E) is totally bad in law & deserves to be set aside. The Ld. AR then read out para 4, 4.1, 4.2, 4.3, 4.4, 4.5 of the **"Impugned Order"**. Our attention was then invited to P.B. pages 139 basis which it was submitted that by letter on **23.11.2011** CIT(Gwalior) MP had acknowledged the assessee application dated NIL in the form 10A which was received in office on **06.05.2011**. That the application was entered at sr. No.03/05 in the register of the applications u/s 12AA(a) & that the registration u/s 12AA is granted to the assessee w.e.f. **01/04/2011**. The Ld. AR also fairly clarified that in the said letter it was stated that certificate **does not entitle the society automatically to the exemption of income u/s 11 & 12** & that the assessing officer shall be free to decide such claim of exemption of income of the assessee society u/s 11 & 12 of the Act after satisfying that the

conditions & requirements laid down in those sections are fulfilled by the assessee society. In so far as **present/current situation is concerned now the assessee society has no government affiliation.** Our attention was drawn to the paper book page 23 which was a news paper clipping dated 22.06.2023 of "**Danik Bhaskar**" wherein it was stated that in the M.P. nursing college's there are irregularities in the admission & that the "M.P. medical Science University" has taken a decision to declare academic year **2023-24** as "**zero year**" though the MP state Government has not yet taken a decision in this regard. In the said newspaper clipping it is further stated that "**MP nursing registration council**" has received information that few institutions without recognition's are **giving illegal admission** & that the council has issued **a warning that for academic year 2023-24 no recognition process has been triggered yet.** Students have been warned not to get confused as admissions now happening are illegal. Further as per the "**Indian nursing council**" orders /directions admission would take place basis "**common**

entrance Test". That the M.P. Nursing Registration Council's administrator Dr. Yogesh Sharma has said that colleges before getting recognition are doing admission hence they have been told that unless & until the recognition is not granted to them **they will not grant any admission & students also will not take admission**. Hence warning has been issued in this regard. In brief Ld. AR submitted that presently no admission are allowed it was submitted that for A.Y.2025-26 ITR, Col, form 3CA, form 3CD, independent auditor's report balance sheet, income & exp A/c notes to A/c, receipt & payment a/c etc. are all at pages 24 to 63 of the **P.B. Basis above** it was contended that the receipts are less but expenses are met out. Our attention was then invited to page 69 of PB which was a consolidated income & expenditure account for the year ended 31.03.2024 where nursing fee was Rs.20,97,500.00 expenses are listed out therein. It was submitted that the assessee society is filling RoI periodically. It was also stated that the assessee society premises are huge & in this regard attention was invited to

pages 5 to 20 of PB. Attention was invited to PB page 140 to 149 of lease deed too.

3.5 Per contra Ld. DR appearing for & on behalf of the revenue submitted that the department of Income Tax has rightly verified the registered premises & **upon verification no activity was found.** The inspection report of the inspector is correct. **No genuine activity is found.** With regard to closure of activity due to current embargo w.e.f Academic year 2023-24 onwards till resumption it was submitted **that if in future or at later stage activities of the assessee society, kicks starts again** then the assessee society can seek registration & same may be granted after following due process of law. But at this stage neither the academic session is there, nor any recognition by the competent authorities which fact is even admitted by the Ld. AR during hearing held today. The Ld. DR submitted that in the absence of any activity, recognition & academic year in force by law as contended by Ld. AR no useful purpose would be met even if the matter is remanded back. The reliance was

placed on the impugned order particularly para 4(5) & 4(6) which speaks of **no charitable activities could be verified & failure to produce books of accounts**. The Ld. AR rejoined that even the provisional registration is cancelled by the impugned order & the Ld. AO has made a demand to which the Ld. DR responded that the assessment & consequent demands are not part of the present proceedings. The hearing was closed.

4. **Observations Findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us, are of the considered opinion that the **"Impugned Order"** has been passed in the violation of the principles of natural justice in as much as the **inspection &**

verification reports of ITO(E) basis inspector's report para 3 of the impugned order **was not furnished to the assessee society**, the Ld. AR has made **a grievance of it** in the ground no.-2 & that we find merits in the same, we hold that it was incumbent upon the Ld. CIT(E) to have disclosed to the assessee all adversarial material against the assessee including the ITO(E) Gwalior & inspector's report which was pursuant to the Ld. CIT(E) letter dated 12.06.2024 for the physical verification of assessee. In so far the premise of the assessee society are concerned & the facilities which are housed in the premises in the paper book we find the photographs are enclosed & in so far as activities are concerned the books of accounts are placed on record for A.Y.2025-26 & of previous years/earlier years. These material were not before the Id. CIT(E) obviously as nothing adversarial was provided to the assessee/society. The assessee society before us has prayed for the remand of the matter back to the file of the Ld. CIT(E) with a direction to supply the Inspector's Report, grant an opportunity of hearing & to decide the matter afresh in accordance with the law. We find in the given facts the assess's society prayer's are justifiable & accordingly we set aside the

impugned order as & by way of remand with following direction to the Ld. CIT(E):-

(i) disclose copy of letter written to ITO(E) Gwalior dated 12.06.2024

(ii) disclose ITO(E) Gwalior report so submitted on physical verification to the CIT(E).

(iii) disclose the inspector's report

(iv) Inquire in to the "charitable nature" of the activities of the assessee society along with main objects & any incidental & ancillary object having nexus with the main object of charitable nature.

(v) requisition necessary state government orders on ban on admission w.e.f academic year 2023-24.

(vi) Requisition orders of M.P. Medical Science University if any

(vii) requisition orders of M.P. nursing registration council if any

(viii) requisition orders of Indian nursing council.

(ix) activities of society be verified vis-a-vis objects of charitable purpose

(x) Any other matter related & incidental to the inquiry & due verification.

(xi) Sufficient notice & opportunity be given to assessee society to set up their defences against proposed cancellation of registration /provisional registration.

(xii) However nothing prevents the Ld. CIT(E) to carry out discreet inquiry & verification.

4.4 In the premises drawn by us the Impugned order is set aside as & by way of remand back to the file of CIT(E) with directions as aforesaid simultaneously we direct the assessee to furnish all the information, material, documents, evidences with regard to their eligibility u/s 12AB. In brief we desire full & prompt compliance by the assessee. The assessee to assist department in obtaining necessary official orders of authorities mentioned above so that time is saved & denovo, adjudication as ordered is speedily disposed off **basis law**. The Ld. CIT(E) is directed to address the concern of the assessee by passing a speaking & reasoned order while adjudicating & adjudging the case on merits on all aspects of registration.

5.1 In the result the "**Impugned order**" is set aside as and by way of remand back to the file of the Ld. CIT(E) on De novo basis.

5.2. The appeal of the assessee is allowed for statistical purpose.

Pronounced in open court on 10.04.2026.

Sd/-

**(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)
JUDICIAL MEMBER**

Indore

Dated : 10/04/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore