

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.2290/PUN/2025

Kshatriya Dnyati Maratha Samaj Sanghatana At Post Guhagar, Dist. Ratnagiri – 415703	Vs.	CIT(Exemption), Pune
PAN: AAABK1552B		
(Appellant)		(Respondent)

Assessee by : Shri Pramod S Shingte
Department by : Shri Ravi Prakash
Date of hearing : 13-04-2026
Date of pronouncement : 15-04-2026

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 04.02.2025 of the Ld. CIT(Exemption), Pune refusing grant of approval u/s 80G of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. There is a delay of 181 days in filing of the appeal before the Tribunal for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay. After considering the contents of the condonation application filed along with the affidavit and after hearing the Ld. DR, the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

3. The grounds raised by the assessee are as under:

1. *On the facts and circumstances of the case and in law the Ld. CIT erred in not granting recognition under clause (iii) of first proviso to sub-section (5) of section 80G on the ground of rejection of registration application u/s 12AB.*

The appellant craves leave to add to, amend, alter, delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.

4. The Ld. Counsel for the assessee at the outset submitted that the Ld. CIT(E) has denied approval u/s 80G of the Act on the ground that the assessee's application for grant of registration u/s 12AB of the Act has been rejected. Referring to the order of the Tribunal in assessee's own case vide ITA No.817/PUN/2025 order dated 14.08.2025, he submitted that the Tribunal has restored the issue to the file of the Ld. CIT(E) with certain directions. He accordingly requested that the matter may be restored to the file of the Ld. CIT(E) with a direction to decide the issue along with the application for registration u/s 12AB of the Act.

5. The Ld. DR on the other hand heavily relied on the order of Ld. CIT(E) rejecting the application for grant of approval u/s 80G of the Act.

6. We have heard the rival arguments made by both the sides and perused the order of the Ld. CIT(E). We find the Ld. CIT(E) refused the grant of approval by observing as under:

6. The assessee furnished its response on 08/01/2025. Upon verification of the documents it is notice that the assessee neither has regular registration u/s 12AB read with section 12A(1)(ac)(i) / 12A(1)(ac)(iii) nor regular approval under section 10(23C) read with clause (i) / (iii) of first proviso to the said section, therefore the assessee trust is not covered under the exclusions provided vide proviso to clause (i) of section 80G(5) of the Act. The copy of order furnished by the assessee trust is actually an order of provisional approval under section 12AB read with section 12A(1)(ac)(vi)(A) of the Income Tax Act, 1961.

7. We find the Tribunal in assessee's own case while adjudicating the rejection of application for grant of registration u/s 12A of the Act has restored the issue to the file of the Ld. CIT(E) by observing as under:

"3. We have heard the ld. Departmental Representative and perused the record placed before us. The main grievance of the issue agitated in this appeal is selection of wrong section code by the appellant pertaining to renewal of regular registration other than section 12A(1)(ac)(iii) of the Act. This issue is no more res integra by virtue of series of decisions by this Tribunal. We note that similar issue came up for adjudication before Coordinate Bench, Surat in the case of Shree Swaminarayan Gadi Trust Vadtal (SVG) Vs. CIT (Exemptions), Ahmedabad in ITA Nos. 369 & 370/Srt/2024, dated 13.05.2024 and the finding of the Tribunal reads as under :

"5. We have considered the submissions of both the parties and perused the record carefully. There is no dispute that the appellant applied for registration under Section 12A/12AB of the Act under Form 10AB on 28.09.2023. The ld. CIT(E) while considering the application of appellant noted that the application filed by appellant is not maintainable and accordingly, a show cause notice dated 02/11/2023 was issued for seeking clarification. The appellant responded to the show cause notice of ld CIT(E) vide their reply dated 15.12.2023. The contents of show cause notice and the reply thereof is not recorded by ld CIT(E) in his order. We find that the appellant vide their reply dated 15/12/2023 prayed to consider the application in appropriate subclause of section 12A(1). The ld CIT(E) held that he has no power to change/ amend or rectify Form-10AB. We find that it was an inadvertent mistake and the appellant has already explained the facts and prayed for correction before the ld. CIT(E). In our view the mistake in filing entry was not fatal and could be considered in appropriate sub-clause or clause of section 12A(1). Otherwise, the appellant has provided all the details and information in Form-10AB, while applying for

registration under section 12A/12AB. Being first appellate authority, the plea of appellant for correction in Form-10AB is accepted and the order of ld CIT(E) is set-aside. The registry official of ld CIT(E) maintaining record of ITBA portal about the registration of trust under section 12A/12AB is directed either to correct such mistake or allow the appellant to rectify or amend the relevant clause/ sub-clause of section 12A(1). Considering the fact that the application of appellant was not considered on merit, therefore, we deem it appropriate to direct the ld. CIT(E) to treat the application of appellant under Section 12A(1)(ac)(iii) in place of Section 12A(1)(ac)(iv) of the Act and to consider the case on merit and pass the order in accordance with law. Needless to direct that before passing the order, the ld CIT(E) shall grant opportunity of hearing to the appellant. The appellant is also directed to furnish complete details to prove its object and activity and make all compliances as desired by the ld. CIT(E). In the result, the grounds of appeal raised by the appellant are allowed for statistical purposes only.”

4. In light of the above decision and having given our thoughtful consideration to the given facts and circumstances prevailing in the instant case, we are of the opinion that since ld. CITE) has himself held that the appeal is not maintainable and ‘rejected’ for statistical purposes which means that he has given the opportunity to file a revised application. Further we are of the view that wrong selection of section code/clause would not disentitle the appellant to its rightful claim. Selection of wrong clause by the appellant cannot be treated as fatal to the proceedings initiated after the filing of the application. We therefore in the interest of natural justice and being fair to both the parties deem it appropriate to grant one more opportunity to the appellant, setting aside the impugned order to the file of ld. CIT(E). The ld.CIT(E) shall give an opportunity to the appellant to file the correct application and then decide the case on merits denovo after granting reasonable opportunity to the appellant. Appellant is also directed to remain vigilant and make satisfactory compliance to the notice(s) of hearing issued by ld.CIT(E). It should refrain from taking adjournments unless otherwise required for reasonable cause. Effective grounds of appeal raised by the appellant are allowed for statistical purposes.”

8. Respectfully following the decision of the Tribunal in assessee’s own case, we deem it proper to restore the issue to the file of the Ld. CIT(Exemption) with a direction to adjudicate the issue afresh in the light of the decision of the Tribunal and as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 15th April, 2026.

Sd/-

(ASTHA CHANDRA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 15th April, 2026
GCVSR

Sd/-

(R. K. PANDA)
VICE PRESIDENT

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	13.04.2026		Sr. PS/PS
2	Draft placed before author	13.04.2026		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
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11	Date of Dispatch of order			