

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.540 & 541/RPR/2024

Bijapur Jan Shikshan Sansthan
Pradhan Mantri Kaushan Kendra (PMKK)
College Road, Bijapur (C.G.)-494 444
PAN: AAIAB8519Q

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax (Exemption)
Bhopal (M.P)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Shri S.L Anuragi, CIT-DR

सुनवाई की तारीख / Date of Hearing : 27.01.2025

घोषणा की तारीख / Date of Pronouncement : 28.01.2025

आदेश / ORDER**PER BENCH:**

The captioned appeals filed by the assessee-society are directed against the consolidated order passed by the Commissioner of Income-Tax (Exemption), Bhopal dated 28.10.2024 declining the assessee's claim for registration u/s.12A(1)(ac)(iii) AND u/s.80G(5)(iii) of the Income-tax Act, 1961 (in short 'the Act'). As the facts and issues involved in the captioned appeals are common, therefore, the same are being taken up and disposed off by way of a consolidated order.

2. We shall first take up the appeal filed by the assessee society in ITA No.540/RPR/2024 wherein, the assessee society has assailed the order passed by the CIT(Exemption), Bhopal dated 28.10.2024 declining its application for registration u/s.12A(1)(ac)(iii) of the Act on the following grounds of appeal:

“1. On the facts and in the circumstances of the case of the assessee the Learned CIT (Exemption) was not justified in rejecting the application filed under section 12 AB without providing adequate opportunity to the assessee.

2. On the facts and in the circumstances of the case of the assessee the Learned CIT (Exemption) was not justified in cancelling the registration under section 12 AB (i)(b)(ii)(B) of the Act.

3. On the facts and in the circumstances of the case of the assessee the Learned CIT (Exemption) was not justified in rejecting the application filed in Form 10 AB for grant of registration under section 12 AB.

4. The assessee craves leave to add/amend/alter or withdraws any ground of appeal(s) at any time on or before the hearing.”

3. Succinctly stated, the assessee society that was provisionally registered u/s. 12AB of the Act had in “Form 10AB” r.w.Rule 17A of the Income Tax Rules, 1962 applied for registration u/s.12A(1)(ac)(iii) of the Act.

4. As is discernible from the record, the CIT(Exemption), Bhopal called upon the assessee society to furnish various documents/information that were required to process the aforesaid application and to verify its objects and activities. Also, it transpires that though the CIT(Exemption), Bhopal had afforded three opportunities to the assessee society to furnish its reply a/w. requisite documents/details, viz. (i) letter dated 08.08.2024 (fixing hearing of the matter for 17.09.2024; (ii) letter dated 23.09.2024 (fixing hearing of the matter for 30.09.2024; and (iii) letter dated 03.10.2024 (fixing hearing of the matter for 15.10.2024), but the assessee neither carried out necessary compliance nor on any of the occasion requested him for further time for furnishing the requisite documents/details. Accordingly, the CIT(Exemption), Bhopal in absence of the requisite details/documents being made available by the assessee, thus, was unable to process its application for registration u/s.12A(1)(ac)(iii) of the Act and was constrained to reject the same. For the sake of clarity, the

observations of the CIT(Exemption), Bhopal are culled out as under (relevant extract):

“The assessee has applied in Form 10AB for registration u/s.12A(1)(ac)(iii) 80G(5)(iii) under the new provisions 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. The details of opportunity letters and response received thereof are as under:-

S. No.	In respect of registration u/s.12A(1)(ac)(iii) & 80G(5)(iii)		
	Date of opportunity letters issued	Hearing fixed on	Remarks
1.	08.08.2024	17.09.2024	No reply received
2.	23.09.2024	30.09.2024	No reply received
3.	03.10.2024	15.10.2024	No reply received

Despite affording sufficient opportunities of being heard and adequate time, the assessee has not submitted required documents. Therefore, the application of the assessee cannot be processed due to non-compliance of opportunity notices by the assessee.

In view of the above, due to non-compliance of opportunity notices, the application of the assessee in Form 10AB for registration u/s.12AB & 80G(5) of the Income Tax Act is hereby rejected.”

5. The assessee society being aggrieved with the order passed by the CIT(Exemption), Bhopal dated 28.10.2024, declining its application for

registration u/s.12A(1)(ac)(iii) of the Act has carried the matter in appeal before us.

6. Shri R.B Doshi, Ld. Authorized Representative (for short 'AR') for the assessee society, at the threshold of hearing, submitted that as the assessee's counsel/employees during the relevant period had remained pre-occupied with finalization of the audit of its accounts, the "due date" of which was fast approaching, therefore, for the said reason they could not participate and furnish the requisite details/documents that were called for by the CIT(Exemption), Bhopal. However, the Ld. AR on being queried that as to whether or not any application seeking adjournment/further time was filed before the CIT(Exemption), Bhopal, answered in negative. The Ld. AR submitted that the matter in all fairness be restored to the file of the CIT(Exemption), Bhopal with a direction to re-adjudicate the same after affording a reasonable opportunity of being heard to the assessee society.

7. Shri S.L Anuragi, Ld. Departmental Representative (for short "CIT-DR"), submitted that as the assessee society had adopted a lackadaisical approach, wherein it had despite being afforded three opportunities not only failed to furnish the requisite details/documents before the CIT(Exemption), Bhopal but had also not even thought it fit to move any application for adjournment, therefore, the latter had rightly rejected its

application for registration filed u/s.12A(1)(ac)(iii) of the Act. The Ld. DR submitted that as the assessee society despite having been afforded three opportunities had failed to respond and furnish the requisite documents that were called for by the CIT(Exemption), Bhopal, therefore, the latter not being able to process the application for registration filed by the assessee society u/s.12A(1)(ac)(iii) of the Act was constrained to reject the same. The Ld. DR submitted that as no infirmity arises from the order of the CIT(Exemption), Bhopal, therefore, the appeal filed by the assessee society being devoid and bereft of any merit was liable to be dismissed.

8. We have heard the Ld. Authorized Representatives of both the parties, and perused the order passed by the CIT(Exemption), Bhopal u/s. 12AB of the Act.

9. Before proceeding any further, we deem it fit to cull out the provisions of Section 12AB of the Act, which lays down the procedure for fresh registration, as under:

“12AB. [Procedure for fresh registration.]

(1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,—

(a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,—

(i) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of the trust or institution; and
(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),—

(A) pass an order in writing registering the trust or institution for a period of five years; or

[(B) if he is not so satisfied, pass an order in writing-

(I) in a case referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (v) of clause (ac) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;

(II) in a case referred to in sub-clause (iv) or in item (B) of sub-clause (vi) of sub-section (1) of Section 12A, rejecting such application,

after affording a reasonable opportunity of being heard;]

(c) where the application is made under item (A) of sub-clause (vi) of the said clause or the application is made under sub-clause (vi) of the said clause, as it stood immediately before its amendment vide the Finance Act, 2023, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought,]

and send a copy of such order to the trust or institution.”

10. Ostensibly, the CIT(Exemption), Bhopal as per the mandate of Section 12AB of the Act, while considering the application filed by the assessee society for registration under sub-clause (iii) of Clause (ac) of Sub-section (1) of Section 12A of the Act was statutorily required to collate certain documents and carry out necessary verification, viz. (i) call for such documents/information or make such inquiry as he sought necessary in order to satisfy himself about-(a) genuineness of the activities of the assessee society; and (ii) compliance of such requirements of any other law for the time being in force as was material for the purpose of achieving its objects. In case the CIT(Exemption) would have been satisfied about the objects of the assessee society and genuineness of its activities, as well as the latter's compliance of the requirements of any other law for the time being in force as was material for the purpose of achieving its objects; then he was obligated to pass an order in writing registering the trust for a period of five years. On the contrary, in case if the CIT(Exemption) was not so satisfied, then as per Section 12AB(1)(B)(I) of the Act, he after affording an opportunity of being heard to the assessee was required to pass an order in writing rejecting its application for registration u/s.12A(1)(ac)(iii) of the Act. Also, the CIT(Exemption) was obligated to forward a copy of his order to the assessee society.

11. As in the present case of the assessee society before us, we find that the latter despite having been afforded more than sufficient opportunities

by the CIT(Exemption), Bhopal for furnishing the requisite details/documents which were specifically called for by him for processing its application for registration u/s.12A(1)(ac)(iii) of the Act, had neither filed the said details/documents nor moved any application seeking additional time for doing the needful. The aforesaid factual position can safely be gathered from the observation of the CIT(Exemption), Bhopal, which for the sake of clarity is culled out as under:

S. No.	In respect of registration u/s.12A(1)(ac)(iii) & 80G(5)(iii)		
	Date of opportunity letters issued	Hearing fixed on	Remarks
1.	08.08.2024	17.09.2024	No reply received
2.	23.09.2024	30.09.2024	No reply received
3.	03.10.2024	15.10.2024	No reply received

12. We have thoughtfully considered the facts involved in the present case, based on which, the CIT(Exemption), Bhopal was constrained to reject the application filed by the assessee society for registration u/s. 12A(1)(ac)(iii) of the Act and find no infirmity in the same. As the assessee society for no justifiable reasons had failed to provide the requisite details/documents that were specifically called for by the CIT(Exemption),

Bhopal for processing its application for registration, therefore, he was unable to carry out necessary enquiries to his satisfaction in discharge of the statutory obligation that was cast upon him, viz. (i) calling for the documents/information or making such inquiry as he sought necessary in order to satisfy himself about-(a) genuineness of the activities of the assessee society; and (ii) compliance of any such requirement under any other law for the time being in force as was material for the purpose of achieving its objects and, thus, as per Section 12AB(1)(b)(ii)(B)(I) of the Act rightly rejected its application for registration filed u/s.12A(1)(ac)(iii) of the Act. At this stage, it would be relevant to reiterate that the lackadaisical conduct of the assessee society in the course of the proceedings before the CIT(Exemption), Bhopal can safely be gathered from the fact that it is not only that it had failed to provide the requisite details/documents that were specifically called for by the CIT(Exemption) for processing its application for registration, but strangely, it had not even thought it fit to request him for providing some further time for providing the requisite details. Although, the Ld. AR states that the counsel/employees of the assessee society at the relevant point of time were pre-occupied with certain either professional engagements, but that could not be a justification for not seeking an adjournment on either of the three occasions when the matter was fixed for hearing before the CIT(Exemption). The Ld. AR had also failed to come forth with any plausible justification about the aforesaid

irresponsible and lackadaisical approach of the assessee society before the CIT(Exemption). We may herein observe, that in case the failure of the assessee society for no justifiable reason to furnish the requisite details/documents that were called for by the CIT(Exemption) for processing its application for registration is condoned, then it would become a precedent for others to not participate before the CIT(Exemption) and furnish the requisite details/documents before him, and thereafter, use the Tribunal as a forum for seeking restoration of the matter and allowing of an another innings before the CIT(Exemption), which, we are afraid cannot be allowed. We, thus, finding no infirmity in the view taken by the CIT(Exemption), Bhopal, uphold his order. Thus, the **Grounds of appeal Nos.2 & 3** raised by the assessee society are dismissed in terms of our aforesaid observations.

13. As the CIT(Exemption), Bhopal had afforded three opportunities to the assessee society to furnish the documents/details i.e. (i) letter dated 08.08.2024 (fixing hearing of the matter for 17.09.2024; (ii) letter dated 23.09.2024 (fixing hearing of the matter for 30.09.2024; and (iii) letter dated 03.10.2024 (fixing hearing of the matter for 15.10.2024), which as observed by us hereinabove it had failed to avail, therefore, we find no substance in the Ld.AR's claim that the order of rejection of the assessee's application u/s.12AB of the Act had been passed without affording of an adequate opportunity to the assessee society, and, thus, reject the same.

Thus, the **Ground of appeal No.1** raised by the assessee society is dismissed in terms of our aforesaid observations.

14. **Ground of appeal No.4** being general in nature is dismissed as not pressed.

15. In the result, appeal filed by the assessee society in ITA No.540/RPR/2024 is dismissed in terms of our aforesaid observations.

ITA No.541/RPR/2024

16. We shall now deal with the appeal filed by the assessee society in ITA No.541/RPR/2024, wherein it has assailed the order passed by the CIT(Exemption), Bhopal declining its application for registration u/s.80G(5)(iii) of the Act on the following grounds of appeal:

“1. On the facts and in the circumstances of the case of the assessee the Learned CIT (Exemption) was not justified in rejecting the application filed under section 80G without providing adequate opportunity to the assessee.

2. On the facts and in the circumstances of the case of the assessee the Learned CIT (Exemption) was not justified in cancelling the registration under section 80G(5)(14)(iii) of the Act.

3. On the facts and in the circumstances of the case of the assessee the Learned CIT (Exemption) was not justified in rejecting the application filed in Form 10AB for grant of registration under section 80G.

4. The assessee craves leave to add/amend/alter or withdraws any ground of appeal(s) at any time on or before the hearing.”

17. Succinctly stated, the assessee society had filed an application in “Form 10AB” r.w.Rule 11AA of the Income Tax Rules, 1962 for granting of registration u/s.80G(5)(iii) of the Act.

18. As the facts leading to the rejection of the assessee’s application for registration u/s. 80G(5)(iii) of the Act remain the same, based on which, its application for registration u/s.12A(1)(ac)(iii) of the Act was declined by the CIT(Exemption), Bhopal, therefore, our view taken for approving the latter’s order shall apply *mutatis-mutandis* for disposing of the present appeal. Accordingly, in absence of any justifiable reason for the assessee society for not participating in the proceedings and furnishing the requisite details/documents that were specifically called for by the CIT(Exemption), Bhopal for processing its application u/s.80G(5)(iii) of the Act, we find no infirmity in the latter’s order declining the assessee’s application for registration u/s. 80G(5) of the Act and, thus, uphold the same.

19. In the result, appeal filed by the assessee society in ITA No.541/RPR/2024 is dismissed in the similar terms as were recorded by us in ITA No.540/RPR/2024.

20. Resultantly, both the appeals of the assessee society are dismissed in terms of our aforesaid observations.

Order pronounced in open court on 28th day of January, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 28th January, 2025.

***SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT, Raipur-1 (C.G)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.