



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.398/Nag./2024**  
**(Assessment Year : N.A.)**

Shri Vyankanath Maharaj  
Shikshan Sanstha Murtizapur  
Near Nemade Typing School  
Shri Vyankatesh School  
Murtizapur 444 107  
PAN – AARAS7006G

..... Appellant

v/s

Income Tax Officer  
Ward-2, Exemption, Nagpur

..... Respondent

Assessee by : Shri Kishore P. Dewani  
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 20/01/2025

Date of Order – 21/03/2025

**ORDER**

**PER K.M. ROY, A.M.**

The instant appeal by the assessee is emanating from the impugned order dated 20/03/2024, passed by the learned Commissioner of Income Tax (Exemption), Pune, [*learned CIT(E)*].

2. Following grounds have been raised by the assessee:–

*"1. The learned CIT (Exemption) Pune erred in not granting registration u/s 12A as applied with reference to application dated 27.09.2023 even though it was holding provisional registration u/s 12A(1)(ac) (vi) of I.T. Act 1961.*

*2. The order passed by CIT (Exemption) non-granting registration u/s 12AB is unjustified, unwarranted and bad in law.*

*3. The learned CIT (Exemption) ought to have grant registration u/s 12AB of I.T. Act 1961 considering the facts and evidence on record.*

4. *The learned CIT (Exemption) erred in cancelling the provisional registration without specifying any specified violation in the case of assessee.*

5. *Any other ground that shall be prayed at the time of hearing.*

3. There is a delay of 45 days in filing the present appeal by the assessee.

The assessee furnished application seeking condonation of delay, the contents of the application are reproduced below:–

*"The assessee respectfully begs to submit as under:*

*1. In the case of assessee, Provisional Registration granted U/s 12AB is cancelled vide Order passed in Form 10AD by Commissioner of Income Tax Exemption of Income Tax Act, 1961 on 20/03/2024. The due date of submission of appeal against order passed in Form 10AD was 19/05/2024. Assessee handed over the documents to CA. Ramesh Chaudhari for preparation of appeal on 20/03/2024. The office of CA. Ramesh Chaudhari was undergoing Major Repair & Renovation work from the month of January 2024 which was completed in the end of June 2024. CA. Ramesh Chaudhari lost track of filing of appeal by due date in view of insufficient concentration on account of simultaneous renovation work to be looked after by him. It was noticed by him in last week of June 2024 that appeal in the case of assessee remained to be filed. The appeal was thus prepared and filed online before Hon'ble Income Tax Appellate Tribunal immediately on 03/07/2024. Thus there is nominal delay of 45 days in filing appeal before Hon'ble Income Tax Appellate Tribunal. The delay in filing appeal is on account of mistake of Chartered Accountant and is sufficient cause for condoning the delay in filing of appeal. Thus delay of 45 days in filing appeal before Hon'ble Income Tax Appellate Tribunal be condoned for reasonable cause explained hereinabove.*

*2. The assessee submits that no hardship or prejudice will be caused to the revenue in case the application is allowed and delay is condoned however if application for condonation of delay is rejected the assessee may lose a valuable right of appeal. In view of above, it is humbly submitted that liberal view be taken and application be allowed and delay be condoned in the interest of justice.*

*3. Assessee places reliance on the decision of Hon'ble Bombay High Court in the case of Vijay Vishin Meghani in ITA No.493 of 2015 vide order dated 19/09/2017 wherein delay of 2984 days in filing appeal has been condoned by Hon'ble Jurisdictional High Court. Ratio laid down by the aforesaid decision squarely applies to the facts in case of assessee and considering the same delay in filing appeal may kindly be condoned.*

*4. Assessee places reliance on judgements of Hon'ble Apex Court for the purpose of condoning the delay in filing of appeal on the facts and evidence on record.*

- i) (1998) 7 SCC 123 N. Balkrishnan vs. Krishna Murthy
- ii) AIR 2002 SC 1201 Ram Nath vs. Gobardhan Sao

5. Assessee places reliance on decision of ITAT, Nagpur Bench, Nagpur in the case of Western Coalfields Ltd. wherein delay of 2054 days was condoned in order dated 21/01/2020 as there was mistake of employee in office. Assessee places reliance on the decision of Hon'ble ITAT Pune Bench in ITA No.753, 797 & 798/Pun/2023 in the case Jaikisan Ganwani vide order dated 28/07/2023, wherein delay of 2058 days was condoned on account of mistake of counsel.

6. It is respectfully submitted that there was no intention on part of assessee to file the appeal at the belated stage of the proceedings. The delay in submission of present appeal is absolutely unintentional and bonafide of Chartered Accountant and is sufficient cause for condoning the delay in filing of appeal. In view of above the delay in filing appeal may kindly be condoned and appeal of assessee be admitted for adjudication on merits in the interest of justice."

4. The application for condonation of delay is also supported by a duly sworn affidavit of Shri Ramesh Chaudhari. We are satisfied that there is sufficient and reasonable cause and there is no mala fide intention. Accordingly, delay of 45 days in filing this appeal before the Tribunal is hereby condoned and we proceed for adjudication.

5. Shri Dewani, learned Counsel for the assessee assailed the impugned order for rejection by drawing our attention to the operative part of the impugned order dated 20/03/2024, contained in Para-6 & 7, is reproduced below:-

"6. The assessee furnished reply on 19/01/2024. The assessee was requested to explain purpose of loan raised and its utilisation for trust objects along with copy of permission under section 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner. The assessee contended that temporary interest free deposits were obtained from the trustees only which have been repaid. Hence permission from Charity Commissioner was not taken. Thus, the trust has not taken required permission before raising loans. Section 36A(3) of the BPT Act, 1950 provides that " no trustee shall borrow moneys (whether by way of mortgage or otherwise) for the purpose of or on behalf of the trust of which he is a trustee, except with the previous sanction of the Charity Commissioner, and subject to such conditions and limitations as may be

*imposed by him in the interest or protection of the trust." Thus, said provision mandates the trust to obtain previous sanction from Charity Commissioner in respect of any loan. The assessee, however, has failed to comply with this statutory provision.*

*7. In view of the above, the undersigned is not satisfied about the genuineness of activities of the assessee and compliance to requirements of any other law for the time being in force by the trust /institution as are material for the purpose of achieving its objects. Therefore, the application filed by the assessee is hereby rejected and the provisional registration granted on 10/03/2022 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled."*

6. Before us, the learned Counsel for the assessee filed a gist of submissions which is also reproduced below:–

*"Application for post facto approval of loans to Charity Commissioner filed on 23/02/2024 is submitted before CIT(Exemption) on 24/02/2024.*

*B) It has not been considered before Rejection of grant of registration u/s 12A and for cancellation of Registration Granted provisionally.*

*C) Request of one more opportunity to explain its case be granted."*

7. Per–contra, the learned Departmental Representative expressed that the impugned order of rejection need not be tinkered with.

8. Let us examine the requirement of the phrase *"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"*

9. Whether trust or institution is required to comply with each an every requirement even if it is trivial or procedural, of such identified law or not? The expression is followed by the word *'material for the purpose of achieving its object'*. The material mean of such consequences, importance or significance as to be likely to influence the determination of a cause; to alter

the character of an instrument, etc. (Legal Glossary 2015 by Govt. of India, Page No.258) The Hon'ble Finance Minister, in her budget speech of 2019, when the similar provision was introduced under the existing section, has said that "In order to ensure that trust or institution complies with local laws that are material for the purpose of achieving its objects...". Hence view can be formed that the requirements have to be material and that also for achieving the objects are required to have complied.

10. The trust or institution is required to comply with any State or Central Law, Rules under a statute and Notifications issued under a Law e.g. Maharashtra Public Trust Act, 1950, Societies Registration Act, 1860, Foreign Contribution Regulation Act, 2010 etc. and Rules made under those Acts. The expression "any other laws" will not include Income-tax Act, 1961. In past it was held that compliance of Rights to Education Act, CIT(E) v/s Kids-R-Kids International Education & Social Welfare Trust [2018] 99 taxmann.com 384 (P & H) (HC); Shri Gian Ganga Vocational & Educational Society v/s CIT [2013] 35 taxmann.com 17/143 ITD 297 (Delhi) (Trib.), Education institution run without obtaining requisite permission, Society is not registered under a particular State statute - Shri Krishna Education & Welfare Trust v/s CIT [2009] 27 SOT 331 (Delhi) (Trib.), charging excess fees in violation of fee prescribed by the Government - R. K. Educational Society v/s CIT [2015] 56 taxmann.com 154/68 SOT 113 (URO) (Visakha.) (Trib.), some part of the land on which a university setup was not owned as per certain Government notification - Indian Medical Trust v. PCIT [2018] 99 taxmann.com 273/173 ITD 508 (Jaipur) (Trib.), etc., are not relevant while the grant of registration,

so long as objects are charitable. But post amendment registering authority is required to satisfy himself about the compliance with other statutes which are material to achieve its objects. Trust or institution may have multiple objects. Some of the objects may not be perused immediately. Non-compliance of certain laws relating to such objects may not be a hindrance to grant of registration. Especially when the Registering Authority has been granted with the power to cancel registration, when the trust or institution has not complied with the requirement of any other law. If Trust or Institution hasn't started the activity then the requirement should be deemed to be complied with and the registering authority ought to be considered as satisfied with the genuineness of activities - *Hardayal Charitable & Educational Trust v/s CIT* [2013] 32 taxmann.com 341/214 Taxman 655 (All.) (HC), *DIT v/s Foundation of Ophthalmic and Optometry Research Education Centre* [2012] 25 taxmann.com 376/210 Taxman 36 (Delhi) (HC).

11. The Trust has subsequently applied for approval of Commissioner, Amravati Division, on 23/02/2024, vide Circular no.607, dated 29/04/2024, Charity Commissioner, State of Maharashtra, Mumbai, has directed to register cases under section 36A(3A) of Maharashtra Public Trusts Act, 1950, at the Divisional Level.

12. We have given our thoughtful submissions to the facts and have dispassionately heard all the arguments. The procedural breach is venial and not material for the purpose of achieving its objects. Moreover, the loan has not been taken by way of encumbrance of assets from any particular

deficiency. The learned CIT(E) has been given onerous responsibility to grant registration under section 12AB of the Act and registration and cancellation can be proceeded with only after affording a reasonable opportunity of being heard. The reply of the Trust that loan has been subsequently repaid has been glossed over and a mere procedural irregularity, which is curable defect has been amplified to deny registration. Moreover, once provisional registration has been granted under section 12AA, under section 12AB(4) of the Act, the learned CIT(E) is perfectly empowered to cancel such registration, if specified violation has taken place. Clause (f) of Explanation clearly lays down the requirement of order; direction or decree, holding such non-compliance has remained undisputed or has attained finality. Such circumstances are non-existent in this case. Accordingly, the provisional registration needs to be converted to final registration. We direct accordingly. Consequent upon our directions based on the findings cited supra, we set aside the impugned order passed by the learned CIT(E) by allowing all the grounds raised by the assessee.

13. In the result, assessee's appeal stands allowed.

Order pronounced in the open Court on 21/03/2025

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 21/03/2025**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur