

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A”BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.424/Bang/2025
Assessment Year : 2025-26

St. Joseph Engineering College Alumni Association College Campus Vamanjoor Mangalore 575 028 Karnataka PAN NO : ABKAS9854N APPELLANT	Vs.	CIT (Exemptions) Bangalore RESPONDENT
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Appellant by	:	Sri Akash Deshpande & Sri Hemant Pai, A.Rs
Respondent by	:	Sri Subramanian S., D.R.

Date of Hearing	:	17.06.2025
Date of Pronouncement	:	25.06.2025

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of Id. CIT(Exemptions), Bangalore vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-25/1071456666(1) dated 23.12.2024 cancelling the registration u/s 12AB of the Income Tax Act, 1961 (in short “The Act”).

2. The assessee has raised the following grounds of appeal:

GROUND OF APPEAL

1. That the learned Commissioner of Income Tax (Exemptions) erred in law and on facts in rejecting the application for registration under Section 12AB of the Income Tax Act, 1961, despite the appellant fulfilling the necessary conditions prescribed under the Act.
2. That the rejection is unjustified on the basis of "insufficient expenditure" towards charitable objects when the law does not mandate immediate large-scale expenditure but only requires proof of intent and initial activities towards its stated objectives.
 - o Reliance is placed on the decision of the CIT vs. Self Employers Service Society (2001) 247 ITR 18 (Kerala), wherein the Hon'ble High Court held that non-commencement of full-fledged activities cannot be a ground for denying registration to a charitable trust if its objects are charitable in nature.
3. That the learned CIT (Exemptions) has wrongly concluded that the expenditure on the public event (marathon against drugs) does not fall under general public utility, whereas awareness programs against social evils such as drug abuse qualify as charitable activities under Section 2(15) of the Income Tax Act.
4. That the learned CIT (Exemptions) has erred in holding that the assessee was ineligible for reapplication on account of a previous rejection, whereas there is no restriction under the law on reapplication if the trust has undertaken new activities to substantiate its claim for registration.
 - o The Hon'ble High Court in Sonepat Hindu Educational and Charitable Society v. CIT (2005) 278 ITR 262 (P&H) held that a trust should not be denied registration merely based on its past rejection if it demonstrates genuine charitable activities thereafter.
5. That the learned CIT (Exemptions) has failed to appreciate that charitable institutions may take time to scale up their operations, and initial years of limited spending should not be a criterion for rejection of registration.
 - o The Hon'ble ITAT in Hardayal Charitable & Educational Trust v. CIT (2013) 151 TTJ 546 (Agra) held that if a trust is carrying out charitable activities even on a small scale, it cannot be denied registration under Section 12AA (now 12AB).
6. That the appellant craves leave to add, alter, amend, or withdraw any of the above grounds of appeal before or at the time of hearing.

PRAYER

In light of the above, the appellant prays for the following relief:

1. That the order passed by the Commissioner of Income Tax (Exemptions) rejecting the application for registration U/s 12AB & cancelling the provisional registration be set aside.
2. That the appellant be granted registration under Section 12AB of the Income Tax Act, 1961.
3. That any other relief, as deemed fit in the interest of justice, be granted.

3. The assessee is a registered society engaged in charitable and social welfare activities, including public awareness programs, social work, and community engagement initiatives as per its stated objectives. The provisional registration was granted in Form 10AC by the Id. PCIT/CIT on 16/02/2022 vide unique Registration No.

ABKAS9854NE20216 from AY 2022-23 to AY 2024-25. Thereafter the assessee Trust submitted an application in Form 10AB on 28.06.2024, seeking final registration under Section 12AB of the Act. On receipt of the application, the Id. CIT(E) assigned the case to the Jurisdictional Assessing Officer (JAO) for verification. On perusal of the submissions made by the assessee, both Range Head and JAO did not recommend for registration, citing the following reasons:-

- o The assessee had not made any substantial application of funds in FY 2021-22.
- o The assessee has spent on functions & celebrations which are alumni meet. Further the assessee has spent only a very meager sum of less than Rs.25,000/- for Social work & charity in FY 2022-23 and FY 2024-25.
- o In FY 2023-24 the assessee had spent Rs. 29,992/- on charity and social work, Rs. 2.69 Lakhs for marathon against drugs which in the opinion of JAO is for a private event & not applied towards any general public utility.
- o JAO also went to the extent of noting that as the assessee received a rejection on the grounds of merits & therefore not eligible for the reapplication.

3.1 Further, the Id. CIT(E) also observed that the assessee trust has not made substantial amount of expenditure towards the objects and accordingly held that the assessee has not commenced its activities towards the attainment of the object. Hence, rejected the application in form 10AB dated 28.6.2024 filed for registration under 12AB of the Act.

4. Aggrieved by the order of Id. CIT(E), the assessee trust has filed the present appeal before this Tribunal. The Assessee Trust has also filed a Paper Book comprising 143 pages containing therein Copy of Memorandum of Association, Copy of Activity & Expense Reports , Copy of Bank Statements, Copy of Provisional Registration, Copy of Application U/s 12A, Copy of ITR-V & Audited Financials for 3 AY along with Copy of notices & Response.

5. The Id. A.R. of the assessee submitted that the Id. CIT(E) erred in observing that the assessee has not commenced its activities towards the attainment of the objects. The Id. A.R. of the assessee also submitted that assessee had produced all the necessary documents/details as required for registration as the Id. CIT(E) herself observed in the order. Further, Id. A.R. submitted that it is only the genuineness of the activity and not the quantum of expenditure which are relevant for granting registration u/s 12AB of the Act.

5.1 Further the Id. AR of the assessee also vehemently submitted the followings-

- o The marathon against drug abuse was a public event aimed at spreading awareness, which qualifies as a charitable activity under the category of general public utility under Section 2(15).
- o The assessee has undertaken genuine charitable activities, including social work and awareness initiatives, thereby satisfying the conditions laid down under Section 12AB.
- o Judicial precedents establish that even minimal initial activities should not bar registration if the trust demonstrates a bona fide intent to fulfill its objects.

- o The Id. CIT(E) could not pointed out any activity of the Trust as not genuine.

6. The Id. D.R. on the other hand, supported the order of the Id. CIT(E).

7. We have heard the rival submissions and perused the materials available on record. On going through the order of Id. CIT(E), we find that the Id. Jurisdictional assessing officer (JAO) observed that the assessee trust has spent for the Social Work and Charity. Further the assessee trust has also conducted a marathon against the drugs for spreading awareness among general public. Therefore, we do not agree with the contention of the Id. CIT(E) that the assessee had not commenced its activity towards the attainment of the objects. We take a note of the fact that the main judiciousness in rejecting the registration of the assessee trust is that the assessee had not made substantial amount of expenditure towards the object. Further, there is not even a whisper about any non-genuineness of the activities carried on by the assessee trust. We are of the considered opinion that it is not the quantum of expenditure which is relevant for the purpose of granting registration but in fact the genuineness of the activity of the trust in accordance with the object of the trust. Under the similar facts & circumstances, this coordinate Bench of ITAT in the case of **Dhwani Shristi Foundation Vs. CIT(E)**, Bengaluru reported in [2025] 175 taxmann.com 454 has held as under:-

“7. We have heard the rival submissions and perused the materials available on record. On going through the order of Id. CIT(E), we find that the Id. Jurisdictional assessing officer (JAO) observed that assessee had received general donation of Rs.48,40,444/- along with service income of Rs.2,09,000/- and interest income of Rs.1,92,024/-. Further, the Id. JAO also observed that medical relief

expenses of Rs.5,90,512/- were incurred towards the object of the trust & could not find it to be non-genuine. Therefore, we do not agree with the contention of the ld. CIT(E) that the assessee had not commenced its activity towards the attainment of the objects. Further, it is an undisputed fact that the assessee trust was registered as a public trust only on 28.6.2023. Therefore, we agree with the contention of the ld. A.R. of the assessee that since it was the first year of its operation, the assessee trust could not spend towards the large scale activity and accordingly the assessee trust had invested Rs.40 lakhs in the fixed deposits as per the modes prescribed in section 13(5) of the Act in order to spend for future applications. Further, we also take a note of the fact that the ld. CIT(E) on the one hand, herself observed that the assessee has submitted all the necessary documents/details as required for registration u/s 12AB of the Act and on the other hand, observed that assessee has not submitted any proof or evidence of activities, which in our opinion is contradictory in itself. We take a note of the fact that the main judiciousness in rejecting the registration of the assessee trust is that the assessee had not made substantial amount of expenditure towards the object. We are of the firm opinion that for the purpose of granting registration, the ld. CIT(E) shall call for such documents or information or make such inquiry as she thinks necessary in order to satisfy herself about the twin object:-

- (a) the genuineness of the activity of the trust 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 object.*

7.1 *In the present case, the ld. CIT(E) has observed that the assessee had submitted all the necessary documents/details as required for registration u/s 12AB of the Act. Further, there is not even a whisper about any non-genuineness of the activities carried on by the assessee trust. The only allegation by the ld. CIT(E) is that the assessee had not made substantial amount of expenditure towards the object of the Trust. We are of the considered opinion that it is not the quantum of expenditure which are relevant for the purpose of granting registration but in fact the genuineness of the activity of the trust in accordance with the object of the trust is relevant for granting registration. Therefore, we agree with the*

contention of the ld. A.R. of the assessee that it is only the genuineness of the activity and not the substantial amount of expenditure which are relevant for granting registration u/s 12AB of the Act. In the present case, it is an undisputed fact that the assessee had already commenced its activity towards the attainment of the object as the assessee trust had incurred the medical relief expenses towards attainment of its objects as observed by the JAO & ld. CIT(E). Since it was the first year of its operation, the assessee was not able to spend towards the large scale activity and hence, filed Form No. 10 on 30.9.2024 vide ack. No.548944470300924 for accumulation of Rs.38,50,000/- for the purposes of “project vision and educational support” for a period of 5 years and invested the amount in the fixed deposit as per the prescribed mode.

7.2 *At this juncture it is worthwhile here to mention the observations of the Apex Court in the case of **Ananda Social & Educational Trust v. Commissioner of Income tax** reported in (2020) 426 ITR 340 as below-*

*“We have given our anxious consideration to the above submissions made by Ms. Aishwarya Bhati, learned Senior Counsel appearing for the appellant - Director of Income-tax and find that it is not possible to agree with the same. The purpose of section 12AA of the Act is to enable registration only of such trust or institution whose objects and activities are genuine. **In other words, the Commissioner is bound to satisfy himself that the object of the Trust are genuine and that its activities are in furtherance of the objects of the Trust, that is equally genuine.***

*Since section 12AA pertains to the registration of the Trust and **not to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision includes 'proposed activities'**. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust.*

We therefore find that the view of the Delhi High Court in the impugned judgment is correct and liable to be upheld.

Ms. Bhati, learned Senior Counsel for the appellant, fairly drew our attention to a judgment of the Allahabad High Court in IT Appeal No. 36 of 2013 titled as "Commissioner of Income Tax-II vs. R.S. Bajaj Society" which has taken the same view as that of the Delhi High Court in the impugned judgment. The Allahabad High Court has also referred to a similar view taken by the High Courts of Karnataka and Punjab & Haryana.

Apparently, a contrary view has been taken by the Kerala High Court in the case of Self Employers Service Society v. Commissioner of Income-tax - [2001] Vol. [247 ITR 18](#). That view however does not commend itself. However, the facts in Self Employers Service Society (supra) suggest that the Commissioner of Income-tax had observed that the applicant for registration as a Trust had undertaken activities which were contrary to the objects of the Trust.

In the result, we find that there is no reason to interfere with the impugned judgment of the High Court of Delhi. The appeal is, accordingly, dismissed"

7.3 We respectfully following the above judgment are of the opinion that the purpose of section 12AB of the Act is to enable the registration only of such trust or institution whose objects and activities are genuine. In other words, the ld. CIT(E) is bound to satisfy herself that the object of the trust is genuine and that its activities are in furtherance of the objects of the trust, that is equally genuine. Since Section 12AB of the Act pertains to the registration of the trust and to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision include proposed activities'. In the present case, the assessee trust had filed form 10 for accumulation of Rs.38,50,000/- for the purpose of "project vision and educational support" which in our view is a proposed activity in line with the objects of the Trust.

7.4 In these circumstances, we are of the considered opinion that the ld. CIT(E) grossly erred in not granting registration merely on the basis of not incurring the substantial amount of expenditure and accordingly, we allow the appeal of the assessee and direct the ld. CIT(E) to grant registration u/s 12AB of the Act as applied by the assessee trust on 20.4.2024 in form No. 10AB. It is ordered accordingly."

7.1 Respectfully following the above decision of the coordinate Bench, we are of the opinion that the ld. CIT(E) grossly erred in not granting registration merely on the basis of not incurring the substantial amount of expenditure and accordingly, we allow the appeal of the assessee and direct the ld. CIT(E) to grant registration u/s 12AB of the Act as applied by the assessee trust on 28.6.2024 in form No. 10AB. It is ordered accordingly.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 25th June, 2025

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 25th June, 2025.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.