IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM

ITA No.7044/Mum/2025

M/s. National Payments Corporation of India, 1001A, B-Wing, 10th Floor, The Capital, Plot No.C-70 Bandra Kurla Complex, Bandra, Mumbai – 400 051	Vs.	**CIT (Exemptions),** Room No.601, 6th Floor, Cumballa Hill MTNL TE Building, Peddar Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai – 400 026
PAN: AACCN9852G		
(**Appellant**)	:	(**Respondent**)

Assessee by	:	Shri Niraj Sheth, AR Ms. Niyati Parikh, AR
Respondent by	:	Shri Vijaykumar Soni, CIT DR

Date of Hearing	:	18.02.2026
Date of Pronouncement	:	25.03.2026

O R D E R

Per Kavitha Rajagopal, JM:

This appeal is filed by the assessee, challenging the order of the Learned Commissioner of Income Tax (Exemptions) ['Ld. CIT(E)' for short], passed u/s. 12AB of the Income Tax Act, 1961 ('the Act').

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

"1. The learned Commissioner of Income tax (Exemptions) ("Ld. CIT (E)") erred in invoking provision of section 12AB(4) of the Income Tax Act, 1961 ("the Act") without satisfaction of the jurisdictional pre-conditions necessary for invoking such power.

2. Ld. CIT (E) erred in cancelling the registration under section 12AB(4) of the Act on the grounds that the activities of the appellant are in violation of below mentioned provisions of the Act:

> *a. Section 2(15) of the Act i.e. activities were not charitable in nature;*
>
> *b. Violation of section 13(1)(c) r.w.s. 13(3) of the Act i.e. direct benefit to specified person;*
>
> *c. Violation of section 11(i) (c) of the Act i.e. application of funds outside India without Board Approval.*

Ld. CIT (E) failed to appreciate that cancellation of registration could not be based on these grounds.

3. Ld. CIT (E) erred in holding that the activities were not charitable in nature.

4. Ld. CIT (E) erred in holding that there was a direct benefit to special persons and therefore section 13(i) (c) r.w.s. 13(3) of the Act applied.

5. Ld. CIT (E) erred in holding that the activities of the appellants were in violation of section 11(1)(c) of the Act.

6. Ld. CIT (E) failed to take into account in various detailed submissions made by the appellant.

7. Ld. CIT (E) erred in alleging in the impugned order, that in course of assessment proceedings, Faceless Assessing Officer had made a reference for cancellation of registration on the grounds that appellant had committed specified violation as mentioned in explanation below section 12AB(4) of the Act.

8. Ld. CIT (E) erred in taking a view contrary to the view of the Tribunal in appellant's own case for Assessment Year 2010-11 and 2012-13.

9. Ld. CIT (E) erred in holding that the activities of the appellant were not genuine, overlooking the entire conspectus of facts and background in which the appellant was formed and continues to exist till date.

10. The Appellant craves leave to add to or amend or alter the aforesaid grounds before the disposal of appeal as they may think fit by themselves or by their representatives.”

3. Brief facts of the case are that the assessee trust was incorporated as a non-profit company u/s 25 of the Companies Act, 1956 (now repealed and replaced by section 8 of the Companies Act, 2013) in December 2008 and the certificate of commencement of business was issued in April, 2009. The assessee claims that its activities are for general public utility without any profit motive and not related to any trade, business or commerce. The assessee company's shares are majorly held by State Bank of India, Punjab National Bank, Canara Bank, Bank of Baroda, Union Bank of India, Bank of India, ICICI Bank, HDFC Bank, Citi Bank and HSBC Bank. The assessee was granted regular registration u/s 12A(1)(ac)(i) of the Act dated 23.09.2021 by CPC in Form 10AC valid for five years commencing from A.Y. 2022-23 to 2026-27. The assessee had filed its return of income for A.Y. 2022-23 dated 04.11.2022 declaring total income at Rs.Nil after claiming refund of prepaid taxes amounting to Rs.3.43 crores which includes refund of advance tax amounting to Rs.2.51 crores. The assessee's case was then selected for complete scrutiny during which the Faceless Assessing Officer ("FAO" for short) had made a reference for cancellation of registration on the ground that the assessee trust had committed "specified violations" as per Explanation to section 12AB(4) of the Act. The Ld. CIT(E) observed that it was deriving income from activities of providing payment gateway services in relation to the business of its member banks and their customers charging fee which are not of charitable purpose as per the provisions of section 2(15) of the Act. Further, it was observed that the assessee has provided service of National Financial Switch which connects ATMs of different banks into one shared network which enabling cash withdrawal, balance enquiry, mini statement etc. giving seamless access to ATMs across

India to various major banks for the banking business including its 10 promoter banks where the assessee is said to have applied its income for benefit of "specified person" which is in violation of the provisions of section 13(1)(c) r.w.s. 13(3) of the Act. On the basis of the said allegation the assessee was issued show cause notice dated 14.01.2025 for cancellation of its registration u/s 12AB(4) of the Act. The assessee filed its response to the same. The Ld. CIT(E) observed that the assessee trust has shown total receipt of Rs.1331,71,84,099/- from its main activities and Rs.2,11,03,35,753/- towards interest income aggregating to Rs.1542,75,19,852/- out of which the assessee has applied Rs.471,33,91,875/- towards its main object and has claimed accumulation of the remaining amount u/s 11(1)(a) and 11(2) of the Act. Further, it is observed that the assessee has claimed expenditure of Rs.699,76,45,031/- towards the object of the trust under the head "general public utility". The Ld. CIT(E) held that the activities of the assessee trust are not in accordance with the provisions of the Act as the said activities are for the benefit of its 10 promoter banks who held the majority stake which are utilized for their banking business for earning profit from their customers. The Ld. CIT(E) further held that the substantial income of the assessee trust is from the service charges for providing services to the customers of the promoter banks which are purely commercial in nature. The Ld. CIT(E) observed that there is no charitable activity in providing such gateway platform for ATMs, IMPS, CTS, RuPay, NACH and AEPS transactions which are carried on for member banks who in turn provide such services to their customers which are chargeable and not free of service. As the assessee trust solely is engaged in activities which are profitable in nature, not benefiting public at large, the Ld. CIT(E) held the activities of the assessee are in violation of the provisions of section 12A and 12AB of the Act thereby committing "specified violation" as per section 12AB(4) of the Act justifying the cancellation of registration of the assessee trust u/s 12AB of the Act granted by CPC vide order dated 23.09.2021 thereby denying benefit of exemption u/s 11 & 12 of the Act w.e.f. 23.09.2021.

4. The assessee trust has challenged the order of Ld. CIT(E) before us on the aforementioned grounds.

5. The Learned Authorized Representative ("Ld. AR" for short) for the assessee commenced his arguments stating that the Ld. CIT(E) has failed to precisely mention what was the "specified violation" as per the provisions of section 12AB(4) of the Act where the explanation to the said provision has categorically specified as to what would amount to "specified violation" for the purpose of cancellation of the registration already granted. The Ld. AR further contended that the assessee was not furnished copy of the reference letter by the FAO as per the 2nd proviso to section 143(3) of the Act inspite of its written request to the lower authorities and the Ld. AR brought our attention to the same enclosed in the paper book. The Ld. AR further brought our attention to the show cause notices issued by the Ld. CIT(E) dated 14.01.2025 and 12.04.2025 which according to the Ld. AR where on different grounds and the said show cause notice failed to mention as to which sub clause of the "specified violation" the notices were issued. The Ld. AR contended that even if there was violation of section 13(1)(c)(ii) of the Act r.w.s 13(3) of the Act as specified by the Ld. CIT(E) it could lead to denying the exemption claimed u/s 11 & 12 of the Act and not result in the cancellation of the registration u/s 12AB(4) of the Act. The Ld. AR argued that the co-ordinate Bench for A.Y. 2010-11 & 2012-13 had allowed the claim of benefit u/s 11 of the Act, though for A.Y. 2011-12 & 2013-14 to 2019-20 exemption u/s 11 of the Act was denied by the Ld. AO and upheld by the Ld. CIT(A) for 2015-16 to 2019-20 and other years appeal are still pending before the Ld. CIT(A). The Ld. AR further stated that for A.Y. 2020-21 exemption u/s 11 of the Act was allowed by the Ld. AO and the co-ordinate Bench for A.Y. 2015-16 to 2019-20 had set aside the matter to the Ld. CIT(A) to decide the issue as per the proposition of Hon'ble Apex Court in the case of ***Assistant Commissioner of Income-tax (Exemptions) vs. Ahmedabad Urban Development Company [2022] 143 taxmann.com 278 (SC)*** which are also pending before the Ld. CIT(A). The Ld. AR summed up his argument stating that the assessee was not given sufficient opportunity of hearing before the Ld. CIT(E), show cause notice did not specify what was the "specified violation" as per the provisions of the Act and the copy of the reference made by the Ld. AO as per the 2nd proviso to section 143(3) of the Act was not furnished to the assessee, resulting in violation of principles of natural justice.

6. The Learned Departmental Representative ("Ld. DR" for short), on the other hand, controverted the said fact and stated that the Ld. CIT(E)'s order is a speaking order which has held that the activities of the assessee trust are not charitable in nature and violating the provisions of the Act. The Ld. DR further contended that the assessee was given sufficient opportunity of hearing before the Ld. CIT(E), where show cause notices were issued and served upon the assessee for which the assessee has also filed detailed reply in response to the said notices. The Ld. DR contended that the order of the Tribunal was against the revisionary order u/s 263 of the Act and not on the issue of cancellation of registration u/s 12AB of the Act and therefore reliance cannot be placed on the same. The Ld. DR extensively relied on the order of the Ld. CIT(E).

7. We have heard the rival submissions and perused the materials available on record. Before we delve into the issue on cancellation of registration u/s 12AB of the Act, the contention raised by the assessee on violation of principles of natural justice ought to be addressed *prima-facie* without getting into the merits. It is observed that during the scrutiny proceeding the FAO has made a reference to the Commissioner seeking for cancellation of registration in terms of violation of the provisions of the Act as per the 2nd proviso to section 143(3) of the Act. The assessee was aggrieved for the reason that it was not provided with the copy of the said reference made by the FAO. On perusal of the records, it is evident that the assessee has sought for furnishing the details of the reference made by FAO to the Commissioner seeking for withdrawal of the approval or registration upon satisfaction of the Assessing Officer that the trust has committed "specified violation" as defined in Explanation to sub-section 4 of section 12AB. Though the provision does not expressly mention about supply of the reference to the assessee it is a settled principle of law where courts have consistently held that any adverse material relied upon by the Department should be disclosed to the assessee which form the basis of action and failure to comply with this would violate *audi alteram partem* i.e. the right to be heard. If it is purely an internal administrative communication which is not relied upon for decision making then the authorities may resist such disclosure but not the reference for initiating cancellation proceeding. Hence, this issue of the assessee shall be addressed by providing a copy of the reference relied upon by the authorities below.

8. Further, it is observed that the assessee was also aggrieved by the fact that the Ld. CIT(E) has failed to mention the relevant clause as to which sub-clause or clauses of “specified violation” the assessee’s case would fall, for the purpose of enhancing the defence precisely by the assessee for the said allegation. On this issue, we find force in the argument of the Ld. AR stating that the assessee was unaware of which of the “specified violation” the assessee’s case would fall under in order to prepare its defence accordingly when the provision has various violations which are categorized herein under:

> *<u>“Section 12AB(4):</u>*
> *Explanation.—For the purposes of this sub-section, the following shall mean "specified violation",—*
>
> *(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or*
> *(b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or*
> *(c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not ensure for the benefit of the public; or*
> *(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or*
> *(e) any activity being carried out by the trust or institution,—*
>
> *(i) is not genuine; or*
> *(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or*

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality [98]*[; or]*

[98]*[(g) the application referred to in clause (ac) of sub-section (1) of* section 12A [99]*[***] contains false or incorrect information.]"*

9. On perusal of the above, it is evident that in order to cancel a registration of the trust, the Commissioner will have to specify which category of the "specified violation" the assessee trust would fall under where there are multiple reasons amounting to violation and neither the show cause notice nor the order for cancellation should suffer from vagueness. In the absence of clear particulars of the alleged violation along with facts and materials proposed to be relied upon, the assessee would be deprived of a meaningful opportunity to respond. For this reason, we deem it fit to remand this issue back to the file of the Ld. CIT(E) for giving one more opportunity to the assessee to present its case according to the "specified violation" with which the assessee's trust would come under for the purpose of deciding the issue of cancellation of registration in accordance with the provisions of law. The Ld. CIT(E) is directed to give sufficient opportunity of hearing to the assessee by setting out the exact charge for the proposed cancellation of registration and to decide the issue on the merits as well in accordance with law by a speaking order. It is pertinent to point out that we have not expressed any opinion on the merits of the issue in hand and had merely set aside this issue to the file of the Ld. CIT(E) for *denovo* adjudication. Accordingly, the grounds of appeal raised by the assessee are hereby allowed for statistical purpose.

10. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 25.03.2026

Sd/-	**Sd/-**
(OM PRAKASH KANT)	**(KAVITHA RAJAGOPAL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai; Dated: 25.03.2026

* Kishore, Sr. P.S.

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai