



**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “C” BENCH: NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

ITA Nos.2763 & 2781/Del/2024

[Assessment Year : 2024-25]

Jain Mahasabha 879 East Park Road Karol Bagh Delhi-110005 PAN-AAJAJ6305M	vs	CIT(Exemption) Delhi
APPELLANT		RESPONDENT
Appellant by	Shri Mohit Choudhary, CA, Ms. Neetu Jain, CA, Shri Harish Kr.Choudhary, CA & Ms. Mitika Choudhary, CA	
Respondent by	Shri Dayainder Singh Sidhu, CIT DR	
Date of Hearing	12.11.2024	
Date of Pronouncement	20.11.2024	

ORDER

PER PRADIP KUMAR KEDIA- AM :

The captioned appeals have been filed at the instance of the assessee seeking to assail the different First Appellate orders, both dated 29.03.2024 passed by Ld. Commissioner of Income Tax (Exemption), Delhi [“Ld.CIT(Exemption)”] under section 12AB(1)(1)(b) & 80G(5)(ii)(b) of the Income Tax Act, 1961 [“the Act”] respectively, pertaining to Assessment Year 2024-25 without considering the reply filed by the assessee in violation of principles of natural justice.

2. The assessee is stated to have been registered under Society Registration Act, 1860 on 14.08.1989 and claimed to be engaged in providing relief to the poor and needy and fulfilling the objects of the society as mentioned in the Memorandum of Association of Jain Mahasabha, Delhi. The assessee applied for provisional registration under section 12A & 80G of the Act vide application dated 31.03.2023 in Form No.10A and has been granted provisional registration in Form No.10AC on 07.04.2023 under section 12A sub-section (1)

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clause (ac) sub-clause (vi) of the Act as well as under the first proviso of clause (iv) of section 80G(5) of the Act. This provisional registration is stated to be granted from Assessment Year 2023-24 to 2025-26.

3. The assessee applied for regular registration in Form No.10AB on 27.09.2023 and 30.09.2023 respectively i.e. within six months of the commencements of the activities. The Ld.CIT(Exemption) however, questioned the genuineness of the assessee's activities and denied regular registration as well as cancelled the provisional registration granted under section 12A & 80G of the Act.

4. Aggrieved the assessee preferred appeal before the Tribunal. The assessee broadly made written submissions as under :

- [i] that the assessee has applied for provisional registration under section 12A and 80G vide application dated 31.03.2023 in Form 10A and has been granted provisional registration in Form 10AC on 07.04.2023 vide Unique Registration Number AAJAJ6305ME20221 under section 12A sub section (1) clause (ac) sub clause (vi) of Income Tax Act, 1961 along with provisional registration in Form 10AC on 07.04.2023 vide Unique Registration Number AAJAJ6305MF20231 under first proviso of clause (iv) of section 80G (5) of the Income Tax Act, 1961. These provisional registration has been granted from Assessment Year 2023-24 to AY 2025-2026.
- [ii]. that as per Section 12A(1) (ac)(iii) of the Income Tax Act, 1961 states that

“where the trust or institution has been provisionally registered under section 12AB[or provisionally approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10), at least six months prior to expiry of period of the provisional registration (or provisional approval, as the case may be.] or within six months of commencement of its activities, whichever is earlier,
- [iii]. in accordance with the same, assessee has applied for regular registration in Form 10AB on 27.09.2023 and 30.09.2023 i.e. within 6 months of the commencement of activities.
- [iv]. thereafter, the Learned CIT(Exemption) Delhi has issued notice having DIN ITBA/EXM/F/EXM43/2023-24/1057717016(1) and ITBA/EXM/EXM43/2023- 24/1057717788(1) dated 06.11.2023 in

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which he has requested to furnish the details /documents/clarifications as mentioned in the total 17 points of the notice which is required to be furnished on or before 21.11.2023.

- [v]. that in compliance of same, appellant has duly submitted its point wise reply on 21.11.2023 along with all the annexures vide acknowledgment number 521016861211123, 521020561211123 and 521020561211123 along with the request that in case you honour are unable to accede to the request of the assessee, the reasons and basis for the same may be kindly be communicated to the appellant.
- [vi]. thereafter, a notice for proceedings under section 12A(1)(ac)(iii) has been issued by Learned CIT(Exemption), Delhi dated 04.01.2024 having DIN No. ITBA/EXM/F/EXM43/2023-24/1059355781(1) to submit the response of letter dated 06.11.2023 on or before 11.01.2024 whose reply has been submitted on 20.03.2024 and 28.03.2024 vide acknowledgment number 148900361200234 and 1569998212280324.
- [vii]. however, Learned CIT (Exemption) Delhi has framed the order under clause (ii)(b)(B) of second proviso to section 80G(5) of the Income Tax Act, 1961 and order under section 12AB(1)(b)(ii)(B) of the Income Tax Act, 1961 in Form 10AD having DIN Number ITBA/EXM/F/EXM45/2023-24/1063599683(1)& ITBA/EXM/F/EXM45/2023-24/1063599557(1) respectively on 29.03.2024 in which application filed in Form 10AB under clause (iii) of first proviso to sub section (5) of section 80G of the Income Tax act, 1961 is rejected along with the provisional registration granted vide UR No. AAJAJ6305MF20231 & AAJAJ6305MF20221 without considering the submission of the appellant only on the basis of conjecture and surmises.
- [viii]. that the Learned CIT(Exemption), Delhi has erred in canceling the appellant's provisional 80G registration, which was valid until the Assessment Year 2025- 2026. Provisional registration, granted under Section 80G(5) of the Income Tax Act, is intended to provide an interim period during which the organization can establish the genuineness of its activities while being eligible for 80G benefits. The CIT(Exemption)'s decision to cancel this provisional registration, even if the final registration was not granted, lacks a fair basis and contradicts the objective of provisional registration.
- [ix]. Provisional registration should only be canceled under specific and justified circumstances, such as a demonstrable breach of compliance or evidence against the charitable intent of the organization. The Learned CIT (Exemption) has not presented any such grounds. All requisite documents and clarifications were duly



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submitted to satisfy the requirements for both provisional and final 80G registration. The unilateral cancellation of provisional registration, therefore, appears arbitrary and unjust, depriving the appellant of the fair opportunity to establish compliance through this period.

[x]. It is pertinent to note that the Learned CIT (Exemption), Delhi has questioned the genuineness of the appellant's activities without sufficient justification. The appellant has provided extensive documentation of its charitable activities, as evidenced by donation receipts, cash book, trustee identity details, activity records, etc. clearly demonstrating the genuine, charitable nature of its operations in alignment with Section 80G requirements.

[xi]. In view of the above grounds, the appellant respectfully prays that the Hon'ble Tribunal may:

- Set aside the order of the CIT(Exemption) and remand the same back to CIT(exemption) to consider the application afresh.
- Reinstate the provisional 80G registration valid through AY 2025-26, thereby allowing the appellant the remaining period to continue charitable activities in alignment with its registration terms.

5. The Ld.Sr.DR for the Revenue on the other hand, did not offer any comments except to rely upon the impugned order passed by The Ld.CIT(Exemption).

6. On appraisal of facts pointed out on behalf of the assessee, it is noticed that the reply in support of the application for regular registration were made on 20.03.2024 and 28.03.2024. The Ld.CIT(Exemption) has passed the order cancelling the provisional registration as well as denying the final registration on the next day of filing of the last reply i.e. 29.03.2024. The plea raised on behalf of the assessee is that the impugned orders are without consideration and reply filed on 28.03.2024. This action of the Ld.CIT(Exemption) has resulted in violation of principles of natural justice resulting in mis-carriage of justice. Hence, to set right such mis-carriage, the impugned orders passed by the Ld.CIT(Exemption) under section 12AB and 80 G of the Act are set aside and remitted back to the file of the Ld.CIT(Exemption) for *denovo* consideration of the respective application in accordance with law after giving proper opportunity to the assessee. Having set aside the impugned order *inter-alia*



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cancelling provisional registration, separate direction to reinstate provisional registration under section 80G of the Act is not necessary.

7. The Ld.CIT(Exemption) shall pass a speaking order after taking into account the explanation and documentary evidences in support of the application for registration as may be considered expedient by the assessee society.

8. In the result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 20th November, 2024.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI