

आयकर अपीलीय अधिकरण , अहमदाबाद न्यायपीठ ‘D’ अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD

BEFORE MS.SUCHITRA R. KAMBLE, JUDICIAL MEMBER
AND
SHRI MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.293 and 294/Ahd/2025

Asstt.Year : - NA

Aruna Kishor Foundation B-203, Gunatit Residency Opp: Gayatri school Gotri Road Vadodara. PAN : AARCA 8467 D	Vs.	CIT(Exemption) Vejalpur Ahmedabad.
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ITA No.323 and 324/Ahd/2025

Asstt.Year : - NA

Aruna Kishor Foundation B-203, Gunatit Residency Opp: Gayatri school Gotri Road Vadodara. PAN : AARCA 8467 D	Vs.	CIT(Exemption) Vejalpur Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri A.K. Khandelwal, AR
Revenue by :	Shri Durga Dutt, CIT-DR

सुनवाई की तारीख / **Date of Hearing** : **05/06/2025**

घोषणा की तारीख / **Date of Pronouncement**: **09/06/2025**

आदेश/ORDER

PER MAKARAND V.MAHADEOKAR, AM:

These four appeals filed by the assessee are directed against four orders passed by the learned Commissioner of Income Tax

(Exemption), Ahmedabad [hereinafter referred to as “CIT(E)”] under section 12AB and section 80G of the Income-tax Act, 1961 [hereinafter “the Act”] rejecting applications made by the assessee in Form 10AB for regular registration. Two appeals arise out of the orders passed by the CIT(E). Since the issues involved are common and interrelated, all these appeals are disposed of by this consolidated order.

Condonation of delay

2. The registry noted the delay in filing appeal before us in case of ITA No. 323 and 324/Ahd/2025. Therefore, before proceeding to adjudicate the appeals on merits, it is pertinent to consider the applications filed by the assessee seeking condonation of delay in filing both the appeals before us. In ITA No. 323/Ahd/2025, the appeal has been filed against the rejection order dated 10.07.2024 passed by the learned Commissioner of Income Tax (Exemption), Ahmedabad, under section 12AB of the Act. The assessee was required to file the appeal within the statutory limitation period of 60 days. However, the present appeal has been filed with a delay of 156 days. Similarly, in ITA No. 324/Ahd/2025, which pertains to the rejection of approval under section 80G vide order dated 15.07.2024, the delay in filing the appeal is 151 days.

3. The explanation offered by the assessee, as supported by the affidavit sworn by Shri Diveyesh Trivedi, Director of the assessee, is that instead of pursuing the appellate remedy before the Tribunal, the assessee, under a *bona fide* belief based on CBDT Circular No. 07/2024 dated 25.04.2024, opted to file fresh

applications for registration/approval within the extended timeline provided therein, i.e., up to 30.06.2024. It is the assessee's submission that it genuinely believed the said Circular offered a remedial route and accordingly acted on the basis of legal advice and under a mistaken understanding of the correct procedural course. It was only upon receipt of the subsequent rejection orders dated 24.12.2024 and 25.12.2024, respectively, that the assessee came to realise that the fresh applications were not maintainable and that the proper and legally tenable course of action was to prefer an appeal against the original rejection orders passed in July 2024. Thereafter, the appeals were filed without further delay. The delay is thus explained to be occasioned due to a bona fide error and not attributable to any deliberate lapse or negligence. The assessee is a non-profit charitable organization working with limited legal and administrative resources for the welfare of the tribal and rural communities. It has been consistently stated that the action was taken in good faith and without any mala fide intent.

4. We have considered the contents of the affidavits, the chronology of events, and the reasons stated for the delay. In our considered view, the explanation tendered by the assessee constitutes sufficient cause within the meaning of section 253(5) of the Act, 1961. We find that the delay is neither contumacious nor deliberate, but rather a consequence of an erroneous interpretation of the Circular and the legal procedure. Accordingly, in the interest of substantial justice and considering the charitable

nature of the assessee's activities, the delay of 156 days in ITA No. 323/Ahd/2025 and 151 days in ITA No. 324/Ahd/2025 is condoned.

Facts of the Case

5. The assessee is a company registered under section 8 of the Companies Act, 2013 and is known as Aruna Kishor Foundation. It is engaged in development work primarily in the tribal and rural areas of Gujarat and Himachal Pradesh, with focus areas including awareness, education, training, health, livelihood, sanitation, water, and socio-cultural inclusion of underprivileged and differently abled persons. The assessee operates as a not-for-profit, non-governmental organization and claims to be undertaking genuine charitable activities with participation from the community and support from institutions and funding agencies. The assessee was granted provisional registration under section 12A of the Act by the CIT(E) on 27.05.2021 from A.Y. 2021-22. In due course, it filed its first set of applications in Form 10AB seeking regular registration under section 12AB and approval under section 80G. The particulars of these applications, including the date of filing, date of opportunity, and order date of the CIT(E), are detailed in the tabular statement below.

6. While disposing of the application under section 12AB, the learned CIT(E), Ahmedabad, rejected the application by invoking clause (vi)(B) of section 12A(1)(ac) of the Act. Though no conclusive finding was recorded as to whether such exemptions were claimed

specifically under section 11, 12 or clause (23C) of section 10, the CIT(E) treated the claim as falling within the mischief of clause (vi)(B) and held the application to be non-maintainable on that basis. The application under section 80G, though filed simultaneously, was not examined independently. It was rejected by way of an implicit and consequential finding linked to the disposal of the 12AB application. No separate discussion or satisfaction was recorded on the conditions prescribed under section 80G(5) of the Act.

7. Subsequently, the assessee filed a second set of applications in Form 10AB for registration under section 12AB and approval under section 80G. These applications were also processed by the learned CIT(E) as mentioned in the table. In the order rejecting the application under section 12AB, the CIT(E) recorded that the earlier application had already been rejected on merits and that the present application was not eligible for refiling under Circular No. 7 of 2024 dated 25.04.2024. The CIT(E) held that the assessee's case did not fall within the situations covered by the said Circular, such as delayed filing or selection of wrong section code, and therefore the application was again treated as non-maintainable. The corresponding application under section 80G was once again rejected without independent adjudication, by merely referring to the rejection under section 12AB. No discussion was made in relation to the compliance with the statutory conditions under section 80G(5) or the relevant rules.

8. Following is the tabulated summary of the applications filed, opportunity given by the CIT(E) and date of order by CIT(E) along with the reasons:

Sr. No.	ITA No. /Ahd/ 2025	Section	Date of Application in form 10AB	Date of Opportunity by CIT(E)	Date of Order of (CIT(E))	Reason for Rejection by CIT(E)
1	293	12AB	15/06/2024	06/09/2024	24/12/2024	Earlier Application rejected and such rejection is not covered by Circular No. 7 of 2024 dated 25-04-2024 hence not maintainable
2	294	80G	15/06/2024	05/10/2024	25/12/2024	Not independently examined. - Rejected consequentially along with 12AB. - No findings recorded under section 80G(5).
3	323	12AB	16/01/2024	24/04/2024	10/07/2024	Invoked bar under section 12A(1)(ac)(vi)(B). - Found that assessee had claimed exemption in ITRs: FY 2021–22: Rs. 85,30,550 and FY 2022–23: Rs. 2,11,82,097 - No conclusive finding on whether exemption was under section 11/12 or 10(23C) but treated as such.

4	324	80G	11/01/2024	30/04/2024	15/07/2024	No separate adjudication. - Rejected implicitly with 12AB order. - No reference to section 80G(5) compliance.
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9. Aggrieved by the orders of the CIT(E), the assessee is in appeal before us raising following grounds of appeal:

ITA No. 293/Ahd/2025

“1. On facts and circumstances of the case the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of registration u/s 12A of the I.T. Act, 1961.

2. That, the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of registration u/s 12A of the I.T. Act, 1961 as no sufficient opportunities provided to the appellant to furnish the details called for.

3. That, the Hon'ble CIT(Exemption) is not justified in cancelling the provisional approval already granted u/s 12A of the I.T. Act, only for the reason that the appellant could not comply to the notices issued for furnishing of certain details / documents.

4. That, the Hon'ble CIT(Exemption) is not justified in treating the present for registration filed as non-maintainable which is against the of equity and fair play.”

ITA No. 294/Ahd/2025

“1. On facts and circumstances of the case the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of approval u/s 80G(5)(iii) of the I.T. Act, 1961.

2. That, the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of approval u/s 80G (5)(iii) of the I.T. Act, 1961 for the sole reason that registration application filed by the Foundation u/s 12A of the Act has been rejected vide order dated 24.12.2024 which he considered as 'pre-requisite' and caused 'double whammy' to the assessee Foundation.

3. That, the Hon'ble CIT(Exemption) has erred in not providing sufficient opportunity of being heard and thus violated the principles of natural justice.”

ITA No. 323/Ahd/2025

“1. On facts and circumstances of the case the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of registration u/s 12A of the I.T. Act ,1961.

2. That, the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of registration u/s 12A of the I.T. Act ,1961 as no sufficient opportunities provided to the appellant to furnish the details called for.

3. That, the Hon'ble CIT(Exemption) is not justified in cancelling the provisional approval already granted u/s 12A of the I.T. Act, only for the reason that the appellant could not comply to the notices issued for furnishing of certain details / documents despite the fact that the trust is engaged in genuine ‘charitable activities’

ITA No. 324/Ahd/2025

“1. On facts and circumstances of the case the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of approval u/s 80G(5)(iii) of the I.T. Act, 1961.

2. That, the Hon'ble CIT(Exemption) is not justified in rejecting the application of the appellant filed for grant of approval u/s 80G (5)(iii) of the I.T. Act ,1961 for the sole reason that registration application filed by the Foundation u/s 12A of the Act has been rejected vide order dated 25.9.2023 & 10.07.2024 which he considered as 'pre-requisite' for grant of approval.”

3. That, the Hon'ble CIT(Exemption) has erred in not providing sufficient opportunity of being heard and thus violated the principles of natural justice.”

10. During the course of hearing before us the learned Authorised Representative (AR) reiterated the facts and submitted that the first application, which was disposed of by the CIT(E) through order dated 24.12.2024, was rejected merely on procedural grounds, without any finding on the genuineness of the

activities or satisfaction of statutory conditions. The CIT(E) did not grant sufficient opportunity to cure the procedural defect regarding the activity report. The AR emphasized that, pursuant to this rejection, the assessee had no option but to file a second application on 16.01.2024 with the intention of complying and rectifying the earlier shortcoming. Thus, the second application was filed only as a consequence of the first rejection and was not an independent fresh claim. The AR also submitted that the CIT(E) gave only one opportunity before rejecting the applications which is against the principle of natural justice. It was further submitted that in both rounds, the application under section 80G was neither independently examined nor any finding recorded on the eligibility under section 80G(5), making the rejection non-speaking and unsustainable in law. The AR pleaded that the orders passed by the CIT(E) may be set aside and the matters be restored for fresh adjudication on merits after affording due opportunity.

11. The learned Departmental Representative (DR) placed reliance on the orders passed by the learned CIT(E), Ahmedabad, and supported the reasons recorded therein for rejecting the applications filed by the assessee under section 12AB and section 80G. However, the DR raised no objection in remanding the matter back to the file of CIT(E) to decide a fresh.

12. We have considered the material on record and rival submissions, including the tabulated chronology of applications and orders passed by the CIT(E), Ahmedabad. The assessee had been granted provisional registration under section 12A of the Act

and thereafter filed two sets of applications in Form 10AB first in January 2024 and later in June 2024 seeking regular registration under section 12AB and approval under section 80G. The first set of applications gave rise to ITA Nos. 323 and 324/Ahd/2025, and the second set resulted in ITA Nos. 293 and 294/Ahd/2025.

13. We first address the appeals in ITA Nos. 323 and 324/Ahd/2025. The application under section 12AB was rejected by the CIT(E) by invoking clause (vi)(B) of section 12A(1)(ac), holding that the assessee was not eligible to apply under that clause because it had already claimed exemption in its ITRs for financial years 2021-22 and 2022-23 in the amounts of Rs. 85,30,550/- and Rs. 2,11,82,097/-, respectively. However, we find that the CIT(E) did not conclusively examine whether such exemption was actually claimed under section 11, 12 or clause (23C) of section 10, which is a *sine qua non* for attracting the bar under clause (vi)(B). The finding is inferential and not supported by any verification of the nature of exemption claimed in the respective years. The mere reflection of income under the head “exempt” in the ITR without a finding on the legal source of exemption is insufficient to invoke a statutory bar of such consequence. Moreover, the assessee had already obtained provisional registration and had applied in continuity for regularisation. There is no allegation of any misstatement, suppression, or misuse of exemption provisions.

14. The application for approval under section 80G, though filed simultaneously, was rejected without any separate adjudication. The CIT(E) summarily disposed of the 80G application along with the 12AB rejection, without recording any satisfaction or finding in terms of section 80G(5). The record does not show that any specific notice was issued in respect of the 80G application or that the CIT(E) examined compliance with the relevant statutory conditions. In our view, such mechanical and consequential rejection of the 80G application is contrary to law, as approval under section 80G is an independent statutory function requiring separate satisfaction of eligibility parameters.

15. We now turn to the second set of appeals ITA Nos. 293 and 294/Ahd/2025. These arose from the assessee's subsequent filing of Form 10AB on 15.06.2024 under the impression that CBDT Circular No. 07/2024 dated 25.04.2024 permitted a fresh application where earlier applications had been rejected or marked defective. However, the CIT(E), in the order dated 24.12.2024, held that the earlier rejection was on merits and not due to technical defects such as delay or wrong section code, and thus the fresh application was not covered by the Circular. Accordingly, the second application was held to be non-maintainable. The corresponding 80G application was again rejected without independent reasoning or analysis, merely by referencing the section 12AB rejection.

16. In our considered opinion, the second set of applications filed by the assessee was not in the nature of an independent claim but

was a remedial measure taken in good faith to address the procedural rejection of the first application. Once it is found that the earlier order dated 10.07.2024 rejecting the first application under section 12AB was based on an unverified assumption and without adequate opportunity, and the 80G rejection was non-speaking, the only proper course is to restore those matters to the CIT(E) for fresh adjudication. Consequently, the second set of applications, and the appeals arising therefrom, become infructuous.

17. We also note the grievance of the assessee that the CIT(E) granted only one opportunity before disposing of the applications, and that the procedural compliance was neither clarified nor supported through further inquiries. Given that the assessee is a non-profit entity engaged in rural and tribal welfare with limited resources, the burden of strict procedural default ought not to defeat the substantive right to seek registration and approval under the law. We accordingly find merit in the plea for restoration. In light of the foregoing discussion, we hold that the orders of the CIT(E) dated 10.07.2024 and 15.07.2024 (impugned in ITA Nos. 323 and 324/Ahd/2025) suffer from procedural impropriety and legal infirmity. These orders are accordingly set aside, and the matters are restored to the file of the CIT(E), Ahmedabad, for fresh consideration in accordance with law after affording due opportunity of being heard to the assessee. As the second set of applications was only a consequence of the rejection of the first,

the appeals in ITA Nos. 293 and 294/Ahd/2025 are dismissed as infructuous.

18. In the combined result, ITA Nos. 323 and 324/Ahd/2025 are allowed for statistical purposes and ITA Nos. 293 and 294/Ahd/2025 are dismissed as infructuous.

Order pronounced in the Court on 09th June, 2025 at Ahmedabad.

Sd/-

**(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER**

Ahmedabad, dated 09/06/2025

*vk**

Sd/-

**(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

True Copy

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad