

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

**BEFORE SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.- 304 & 305/Del/2026  
[Assessment Year: NA]**

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| Social Welfare Public Trust,<br>C 1/5, Gulal Chand Gupta Marg,<br>Model Town III,<br>Delhi-110009. | Vs | Commissioner of Income Tax<br>(Exemption), E Block, Civic<br>Centre, Shyama Prasad Mukherjee<br>Marg, Minto Road, Delhi-110002. |
| <b>PAN- AATS4033M</b>  |    |   |
| Assessee   |    | Revenue   |

|             |                                     |
|-------------|-------------------------------------|
| Assessee by | Shri Pratap Gupta, CA (virtual)     |
| Revenue by  | Shri Dayainder Singh Sidhu, CIT(DR) |

|                              |                   |
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| <b>Date of Hearing</b>       | <b>29.04.2026</b> |
| <b>Date of Pronouncement</b> | <b>30.04.2026</b> |

**ORDER**

**PER BENCH:**

These two appeals preferred by the assessee are against the two separate orders both dated 03.12.2025 of Ld. Commissioner of Income Tax (Exemption), Delhi, order, rejecting the respective application of the assessee filed in Form 10AB for registration u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] and the application in Form 10AB for seeking approval u/s 80G of the Act. The approval for registration u/s 12A(1)(ac)(iii) of the Act was rejected by the

Ld CIT (E) on the ground the applicant trust deed of the assessee trust did not contain 'Irrevocable' clause. Consequent, to this rejection, the approval u/s 80G of the Act was also rejected by the Ld CIT (E). The relevant extracts of the order of the Ld. CIT(E) rejecting the registration u/s 12A(1)(ac)(iii) of the Act is reproduced as under:

*“Order under u/s 12AB(1)(b)(ii)(B) of Income Tax Act, 1961*

*The applicant has filed an application dated 03.04.2025 in Form 10AB for registration u/s 12A(1)(ac) (iii) of the Income Tax Act, 1961. The applicant was issued a questionnaire dated 05.06.2025 with a request to furnish certain details/documents/clarifications in support of its claim of registration u/s 12A(1)(ac)(iii). The applicant submitted response on various dates replying to the notices sent. On perusal of reply filed by the applicant, following discrepancies are found*

*1. The applicant trust deed doesn't contain IRREVOCABLE clause: The absence of irrevocable clause results in failure to ensure that the income & property of the trust shall be utilized solely for charitable purposes, as required under provisions. Section 11 of Act is applicable subject to Section 60 to 63 of Act. Section 60 to 63 deal with clubbing of income. As per Section 62(1)(i), section 61 shall not apply to a person, where transfer is done by way of trust, which is not revocable. Thus for a settler to create a public charitable trust, it is necessary that said charitable trust is irrevocable. It is further important to note that once a public charitable trust is created, all of its assets belong to public and it is very important that the settler does not have any right to revoke the trust. Thus to ensure true nature of public Charitable trust, it must be irrevocable. Further while filing Form 10AB, the applicant has given an undertaking at point (6) that its deed is irrevocable. The said undertaking is false & is a specified violation as per section 12AB (4) of IT Act.*

*2. The applicant trust deed doesn't contain DISSOLUTION Clause The absence of dissolution clause results in failure to ensure that the income and property of the trust shall be utilized solely for charitable purposes, as required under the provisions of Section 12A read with section 12AB of Income Tax Act, 1961. It is pertinent to mention here the Doctrine of Cy-Près: The Guiding Principle of 09 Dissolution This doctrine ensures that property once dedicated to charity remains in the charitable domain in perpetuity. The Supreme Court's articulation of the Public Trust Doctrine in environmental law provides a powerful parallel. In Intellectuals Forum, Tirupathi v. State Of A.P And Others (AIR 2006 SC 1350), the Hon'ble Supreme Court noted that property subject to a public trust must be held available for use by the general public and cannot be sold or diverted from its particular use. The cy-près doctrine is the specific legal tool that applies this philosophy to charitable endowments. In this case, the Hon'ble Supreme Court has emphasized that public/charitable property must not be allowed to be diverted and must remain perpetually dedicated to public benefit.*

2. *The applicant is thus rejected as trust deed of the applicant is not irrevocable and its process of its dissolution is not defined.*

3. *Since, the application filed in Form 10AB seeking registration u/s 12A(1)(ac)(iii) is rejected, the provisional registration granted vide order dated 30.11.2022 having Unique Registration Number AAATS4033ME20221 issued for the period from AY 2023-24 to A.Y.2025-26 is also cancelled.”*

2. Aggrieved with the said order, the assessee filed an appeal before us on the following grounds of appeal:

*“1. That ld CIT (E) without appreciating the correct facts of the case and without giving proper opportunity of being heard and without considering the appointment taken for amendment in trust deed alongwith draft supplementary deed incorporating the irrevocable clause, (although amendment in trust deed was not required in view of nature and activity of trust for indefinite period, for granting the registration is not justified in law and facts and circumstances of the case in not allowing the permanent registration u/s 12A(1)(ac)(iii).*

*2 That ld CIT(E) without appreciating the correct facts of the case and without giving proper opportunity of being heard and issuing any show cause notice is not justified in law and facts and circumstances of the case in cancelling the provisional registration with retrospective effect which was granted earlier vide order dated 30/11/20222 having Unique Registration No. AAATS 4033ME20221 for the period from AY 2023-24 to AY 2025-26.”*

3. The Ld. AR of the assessee filed a written submission in support of its grounds of appeal. The relevant extract of the same is reproduced as under:

*“ The above two appeals filed by the appellant assessee are fixed for hearing on before Hon'ble ITAT Delhi bench 'C' on 29/04/2026 against the order of rejection for granting the registration u/s 12A and 80G. Appellant trust is a charitable trust and is engaged in charitable activities has not been disputed by Id CIT(E). The registration has been denied merely for the reason that there was no irrevocable clause in the trust deed. In this connection it is submitted before your honour that charitable object of the trust was for indefinite period. Further it has also been held by various court of law that merely because there is no irrevocable clause in the trust deed, registration cannot be denied. Copy of judgments are enclosed herewith.*

Apart from above this is further submitted before your honour that amendment in the trust deed incorporating dissolution/irrevocable clause has also been made. With reference to amendment in trust deed, during the course of hearing before Id CIT(E), on 24/11/2025 it was also informed that appointment with the sub-registrar to amend the trust deed has also been fixed on 01/12/2025 and on 28/11/2025 draft trust deed having the amended clause was also filed before Id CIT (E). Necessary evidence of the same is enclosed herewith.

In view of above submissions and case law relied upon, your honour is requested to allow both the appeal of the appellant trust and direct the Id CIT(E) to allow the registration u/s 12A and 80G and oblige.

3.1 The Ld. AR also relied upon the decision of the Hon'ble High Court of Allahabad in the case of Commissioner of Income-tax (Exemption) vs. Reham Foundation LKO [2019] 111 taxman.com 379 (Allahabad), to submit that if the Tribunal is satisfied with the conditions attached to the grant of registration to the assessee trust u/s 12 A of the Act, then the Tribunal could direct registration of Trust without remanding the matter to the Ld. CIT(E).

4. On the other hand, the ld. CIT(DR) supported the order of the Ld. CIT(E), but fairly submitted that this issue may be restored to the file of the Ld. CIT(E) for necessary verification and passing of fresh order in accordance with law. In this regard, the Ld. CIT(DR) also relied upon the order dated 12<sup>th</sup> February, 2026 of the Hon'ble Delhi High Court in the case of Commissioner of Income Tax -Exemption vs. Kush Innovative Foundation, ITA 115/2026, CM APPL 9203/2026, ITA 119/2026, CM APPL 9430/2026 and submitted that where any new document is filed before the Tribunal for the first time, then in such a situation the issue should be restored to the

file of the Ld. CIT(E) for necessary verification and passing of fresh order in accordance with law

5. We have heard both the parties and perused the material available on record. The assessee before us has filed a Supplementary Trust Deed executed at Delhi on 01.12.2025 on non-judicial stamp paper by Shri Ramesh Kumar Gupta, the settlor of the said Trust incorporating the 'Irrevocable' clause deed in the principal deed executed on 15.01.1981. The relevant extract of the said clause is reproduced as under:

*“ 3. AND WHEREAS, the Settlor has deemed it expedient and necessary to further supplement, clarify, and confirm certain provisions of the Principal Deed, without in any way affecting, altering, or amending the objectives, management, or powers vested under the said Trust Deed.*

*4. AND WHEREAS, the Settlor specifically intends to declare and confirm that the said Trust created under the Principal Deed is irrevocable, and the same shall continue to remain so in perpetuity.*

*NOW THIS DEED WITNESSETH AS FOLLOWS:*

*1. That notwithstanding anything contained in the Principal Deed or otherwise, it is hereby expressly declared, affirmed, and confirmed by the Settlor that the Trust constituted under the Principal Deed is and shall remain irrevocable in all respects.*

*2. That the Settlor hereby unequivocally undertakes and covenants that neither the Settlor nor any person claiming through him/her shall revoke, rescind, amend, or alter the said Trust or its provisions at any time in future.*

*3. That the Trust shall continue to function, operate, and subsist in accordance with the terms, powers, and conditions embodied in the Principal Deed, subject always to the laws in force, and shall be binding on the Settlor, the Trustees, and their respective successors.*

*4. That this Supplementary Deed is executed only to incorporate the irrevocability of the Trust, and save for the modification herein contained, all other provisions of the Principal Deed shall remain unchanged, valid, binding, and operative as originally executed and registered.”*

*(emphasis supplied by us)*

5.1 The Ld. AR also relied upon the decision of Hon'ble Allahabad High Court in the case of Commissioner of Income-tax (Exemption) vs. Reham Foundation LKO (supra) to submit that if the Tribunal is satisfied with the conditions attached to the grant of registration to the assessee trust u/s 12 A of the Act, then the Tribunal could direct registration of Trust without remanding the matter to the Ld. CIT(E). The above plea of the assessee has been carefully considered but not found to be acceptable as the facts are distinguishable in the present case. In the case before the Hon'ble Allahabad High Court, the CIT(E) had refused to accept application for registration of Trust u/s 12AA of the Act, after recording his findings on the basis of materials on record before him holding that activities and objects of the trust were not genuine but the Tribunal on the basis of same material on record came to conclusion that the order of the CIT(E) was perverse since it was passed ignoring, misconstrued or misinterpreting such evidence. On the other hand, in the present case the Supplementary Trust Deed by which 'Irrevocable' clause was incorporated on 01.12.2025 by the settlor in the principal deed executed on 15.01.1981 was not before the Ld. CIT(E), when the Ld. CIT(E) rejected the application of the assessee. Therefore, the facts are distinguishable in the present case and therefore, the decision relied upon by the assessee will not be applicable in the given facts of the case of the assessee.

5.2 Therefore, in view of the fact, that the assessee has incorporated the 'Irrevocable' clause in the trust deed, the matter is set aside to the file of the CIT(E) to consider the registration of the assessee, in view of the incorporation of the above clause after necessary verification and pass necessary order for registration u/s 12A(1)(ac)(iii) of the Act preferably within a period of 60 days after the receipt of this order and in accordance with law.

6. In the result, appeal of the assessee is allowed for statistical purposes.

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7. In view of the rejection of the assessee's application for registration of trust u/s 12A(1)(ac)(iii) of the Act, the registration u/s 80G of the Act was rejected. In view of the fact, the issue of granting the registration u/s 12A(1)(ac)(iii) of the Act, of the assessee has been set aside to the file of the Ld. CIT(E), this issue is also set aside to the file of the Ld. CIT(E) for passing necessary order for grant of approval u/s 80G of the Act preferably within a period of 60 days after the receipt of this order and in accordance with law

7.1 In the result, appeal of the assessee is allowed for statistical purposes.

8. To sum up, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 30.04.2026.

Sd/-  
**[RAJ KUMAR CHAUHAN]**  
**JUDICIAL MEMBER**

Sd/-  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Dated- 30.04.2026.

Pooja.

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT (E)
4. DR

Asst. Registrar,  
ITAT, New Delhi,