



2026:KER:39481

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE BASANT BALAJI

THURSDAY, THE 4TH DAY OF JUNE 2026 / 14TH JYAISHTA, 1948

ITA NO. 120 OF 2025

AGAINST THE ORDER DATED 27.06.2025 IN ITA NO.107/COCH/2025

APPELLANT/APPELLANT IN ITA:

**ATMA BODHODAYA SANGHAM SREE SUBHANANDA TRUST
CHERUKOLE, MAVELIKKARA, ALAPPUZHA DISTRICT.
PIN - 690104. REPRESENTED BY SECRETARY SWAMY
GEETHANANDAN, AGED 58 YEARS, RESIDING AT SREE
SUBHANANDA ASRAMAM, CHERUKOLE, MAVELIKKARA,
ALAPPUZHA.**

**BY ADVS.
SHRI.AUGUSTINE P.
SHRI.JAWAHAR JOSE
SHRI.GREGORY PRINCE MYLADI
SHRI.JYOTHISH A. P.**

RESPONDENT:

**COMMISSIONER OF INCOME TAX (EXEMPTIONS)
AAYAKAR BHAVAN, OLD RAILWAY STATION ROAD,
ERNAKULAM, KOCHI, PIN - 682018**

**BY ADVS.
SHRI.JOSE JOSEPH - SC
SRI.CYRIAC TOM**

**THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
04.06.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

**CR****JUDGMENT**Devan Ramachandran, J.

The appellant claims to be a charitable trust incorporated for the sole purpose of undertaking charitable activities; and say that they were originally registered under Section 12A of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’ for short), on 23.03.1988. They say that, unfortunately, due to an error in the system, when they applied for provisional registration for the year 2020-21, Section 10(23) came to be selected, instead of Section 12A of the ‘Act’; and that this led to a provisional registration being incorrectly issued to them under Section 10(23), followed by a final registration under the said Section on 22.09.2021, valid up to March 2024.

2. The appellant explains that when this omission was noticed, they approached the authorities who directed them to surrender the registration, which they did; and consequently,



applied for registration afresh from the year 2021, relying upon Circular No.7/2024 dated 25.04.2024 of the Central Board of Direct Taxes (CBDT). They impute that, however, the said application has been considered only for the current year, and resultantly, a provisional registration granted to them solely for the year 2023-24, thus rendering a situation where they had no registration for the years 2022-2023. They say that they hence approached the authorities in hierarchy, finally leading to the impugned order of the Income Tax Appellate Tribunal, Kochi, (ITAT), which rejected their claim, holding that registration under Section 12A of the 'Act' does not permit any retrospective effect.

3. Sri. Augustine P. - learned counsel for the appellant, submitted that this is not a case where his client applied for registration afresh for they year 2022-23, but that they requested for the benefit of the Circular aforementioned which gave them time till 30.06.2024 to make necessary rectification application. He contended that, however, this has not been appreciated by any of



the authorities solely for the reason that a wrong registration certificate had been issued earlier. He prayed that, therefore, the impugned order be set aside and the authorities be directed to issue to his client registration under Section 12A of the 'Act' with effect from 2020-21.

4. Sri.Jose Joseph – learned Senior Standing Counsel for the Income Tax Department, countered the afore submissions, contending that Circular No.7/2024 would not apply to this case because, as is clear therefrom, though it provides an opportunity to an assessee to apply afresh until 30.06.2024, it would be so, only in cases where the earlier application has been rejected on account of the fact that it is filed after the due date, or made under a wrong Section. He argued that, in this case, the application of the appellant was made specifically under Section 10(23) of the Act, which was allowed; and therefore, the afore Circular would never apply. He concluded his submissions, saying that when the appellant thereafter applied for a fresh registration



under Section 12A of the ‘Act’, it was correctly granted provisionally for the year 2023-24 and hence that they cannot challenge the same. He prayed that this Appeal be, therefore, dismissed.

5. We see from the records that the substantial questions of law framed in this case are as under:

1. Whether the ITAT and CIT (Exemption) committed a legal error by refusing exemption under Sections 11 & 12 for AY 2022-23, without considering the valid Form 10AB filed on 07-06-2024, which stood protected and regularized by CBDT Circular No. 07/2024 issued u/s 119?

2. Whether denial of exemption only because the earlier application was filed under a wrong section code (Section 10 instead of 12AB) violates the principle of ‘substance over form’ when the objects and activities of the Trust are genuinely charitable and the defect is expressly curable?

3. Whether, upon filing of the valid Form 10AB within the extended period, a vested statutory right to exemption exists for AY 2022-23, and whether mechanical refusal amounts to violation of natural justice and Article 14 of the Constitution?

4. Whether the ITAT’s refusal to consider the 07-06-2024 Form 10AB constitutes non-application of mind and arbitrary exercise of jurisdiction?

6. In our view, the essential aspect in this case is whether the benefit of Circular No.7/2024 would lend strength to the



request of the appellant. But, before we speak on this, we must record that it does not appear from the order that such an issue was ever raised even before the learned ITAT.

7. The appellant asserts that they made a wrong application for the year 2020-21, invoking Section 10(23) of the 'Act', because of an alleged system error. There is hardly any information on record to establish this and we cannot, therefore, accept it on face value. However, the fact remains that the appellant had obtained registration under Section 12A as early as on 23.03.1988 and it may be probable that they made a mistake in applying for registration for the year 2020-21 under a wrong code.

8. Interestingly, as per the Circular referred above, had such an application been rejected, then the appellant would have been in a position to make a fresh application until 30.04.2024. However, in this case, the application of the appellant made for the year 2020-21 came to be allowed and it is hence that the



controversy has arisen. The appellant, thereupon, surrendered the registration which they obtained and made a fresh application under Section 12A seeking registration with effect from 01.04.2021. However, this has not been allowed and the provisional certificate issued pursuant thereto show that it is from 18.03.2023 only.

9. As mentioned above, the learned ITAT did not have an opportunity of considering the impact of the Circular because, such an issue was never raised before it by the appellant. What the appellant sought was that its registration be construed to have retrospective effect from the year 2021, which has been found to be untenable by the learned Tribunal.

10. That said, however, it is necessary that the impact of the Circular be properly assessed by the competent Authority before any final decision be taken on the claims of the appellant.

11. To reiterate, had the appellant's application for the year 2020-21 been rejected for the reason that it was filed under



a wrong Section code, the benefit of the Circular may have been available to them. It is singularly because it has been allowed, that the impugned order has been issued.

12. We are, therefore, of the firm view that the competent Authority – which is the Commissioner of Income Tax (Exemptions) – must reconsider the request of the appellant for registration from the year 2021, adverting to the ambit of the Circular No.7/2024 dated 25.04.2024 and to their specific contention that, since they have surrendered their registration which was wrongly given to them under Section 10(23) of the ‘Act’, it must be deemed that their first application had been rejected on account of furnishing of a wrong Section code.

In summation, we allow this Appeal and set aside the impugned order of the learned ITAT, as also that of the CIT (Exemptions); with a consequential direction to the latter Authority to reconsider the application of the appellant, particularly with respect to their claim for registration from



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01.04.2021, on the strength of Circular No.7/2024 dated 25.04.2024, after affording them necessary opportunities.

In view of the fact that we have allowed this Appeal for the reasons above, thus ordering remit, we choose not to answer the questions of law framed specifically; but to leave them for future, if it becomes warranted to be answered.

We, however, clarify that our observations cannot be construed to mean that the appellant is entitled to any relief, but solely that all its contentions, including those which are recorded above, must be taken into account and adverted to by the Authority while completing the exercise; which shall be done as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

BASANT BALAJI

JUDGE

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APPENDIX OF ITA NO. 120 OF 2025

PETITIONER ANNEXURES

Annexure -A1	TRUE COPY OF THE TRUST'S REGISTRATION CERTIFICATE DATED 28-11-2001
Annexure -A2	TRUE COPY OF CBDT CIRCULAR DATED 25-4-2024 BEARING NO. 07/2024.
Annexure-A3	TRUE COPY OF THE E-FILING ACKNOWLEDGMENT DATED 07.06.2024
Annexure -A4	TRUE COPY OF THE IMPUGNED ORDER IN FORM 10AD DATED 06.12.2024
Annexure A5	TRUE COPY OF ORDER DATED 27.06.2025. IN I.T.A NO. 107/COCH/2025 OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH.
Annexure A-6	TRUE COPY OF THE DEMAND NOTICE FOR THE ASSESSMENT YEAR 2022-2023.
Annexure- A7	TRUE COPY OF THE ORDER IN FORM NO. 10 AC ISSUED BY COMMISSIONER OF INCOME TAX FOR THE ANNUAL YEAR 2022-2023 AND 2024-25
Annexure- A8	TRUE COPY OF THE ORDER IN FORM NO. 10 AC ISSUED BY COMMISSIONER, WHEREBY THE REGISTRATION WAS SURRENDERED BY THE APPELLANT.
Annexure -A9	TRUE COPY OF THE APPLICATION SUBMITTED IN FORM 10AB ON 31-3-2022 .
Annexure-A10	TRUE COPY OF THE ORDER PASSED BY THE COMMISSIONER OF THE INCOME TAX (EXEMPTION), KOCHI, IN FORM NO. 10 AD
Annexure -A11	TRUE COPY OF THE APPLICATION FOR REGISTRATION FOR PROVISIONAL REGISTRATION SUBMITTED ON 18-3-2023,
Annexure -A12	TRUE COPY OF THE ACKNOWLEDGEMENT FOR ANNEXURE-A10 APPLICATION
Annexure -A13	TRUE COPY OF THE THE ORDER DATED 25-3-2023 PASSED BY THE PRINCIPAL COMMISSIONER OF INCOME TAX