

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.961/Kol/2023**

**Assessment Year:**

Santiniketan Sishutirtha, AT Sohini, Digantapally, Santinketan, Goalpara, Santiniketa S.O Birbhum, West Bengal-731235 (PAN: AAJTS6125R)	Vs.	Commissioner of Income Tax (Exemptions), Kolkata
<b>(Appellant)</b>		<b>(Respondent)</b>

&

**ITA No.941/Kol/2023**

**Assessment Year:**

Vivekananda Lokasiksha Mondir, AT Muradpur, Muradpur B.O. Muradpur, East Midnapore, West Bengal-721625. (PAN: AAATV2384A)	Vs.	Commissioner of Income Tax (Exemptions), Kolkata
<b>(Appellant)</b>		<b>(Respondent)</b>

&

**ITA No.938/Kol/2023**

**Assessment Year:**

Ghosaldanga Bishunbati Adibasi Trust, AT Ghosaldanga, PO Sattore, Dist. Birbhum, West Bengal-731236. (PAN: AAATG7101N)	Vs.	Commissioner of Income Tax (Exemptions), Kolkata
<b>(Appellant)</b>		<b>(Respondent)</b>

**Represented by:**

Appellant by : Shri P. K. Ray, Advocate  
Respondent by : Shri Rakesh Kumar Das, CIT, DR

Date of Hearing : 24.01.2024  
Date of Pronouncement : 30.01.2024

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

All these captioned appeals filed by different assessee are against the separate orders of Ld. CIT(E), Kolkata dated 04.07.2023, 11.07.2023 & 11.07.2023 respectively arising out of order passed u/s. 12AB(1)(b)(iii) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"). Since grounds are common and facts are identical, we dispose of all these appeals by this consolidated order for the sake of convenience by taking the ITA No. 961/Kol/2023 as the lead case and result of which will apply mutatis mutandis in all the other appeals.

2. The solitary grievance of the assessee is that Ld. CIT(E) has erred in rejecting the application filed by the assessee for grant of registration u/s. 12AB(1)(ac) of the Act.

2. Brief facts of all the above appeals are that they are existing Trust and earlier enjoying registration under section 12AA of the Income Tax Act. After introduction of the new Scheme, the assesseees have applied for registration, which applications were allowed by the Department and copy of the order is available in Form No. 10AC. The Registrations were granted provisionally from 23<sup>rd</sup> September, 2021. Meanwhile the assesseees have filed one more application in Form No. 10AB. In the application at Serial No. 2, there is a narration – "02-Sub-clause (iii) of clause (ac) of sub-section (1) of section 12A". It is pertinent to take note of this clause, which reads as under:-

*"(iii) where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier".*

3. On perusal of the application, Id. Commissioner formed an opinion that this clause is meant for grant of provisional registration. In these cases, already provisional registration has been granted. The assesseees are required to file an application within six months prior to expiry of period of the provisional registration or within six months from the commencement of activity, whichever event occurs first.

4. With the help of Id. Representatives, we have gone through the record carefully. It emerges out that basically application of the assessee ought to have been under section 12A, sub-clause (1)(ac)(i), where a regular registration for a period of five years ought to be granted. Automatically dismissal of the applications of assesseees resulted on account of wrong mention of the clause in the application form. Had an opportunity would have been provided in the system, the assesseees could have rectified this application and mentioned correct provision that these applications be treated under section 12A(1)(ac)(i). Considering the hardship faced by the assesseees, we deem it appropriate to relegate this issue to the file of Id. CIT(Exemption) with a direction that application in Form No. 10AB should be construed as if filed under clause 12A(1)(ac), sub-clause (i). The applications are to be considered on merit for grant of registration for a fixed period, not be treated to grant a provisional registration.

5. In the result, all these appeals are allowed in above terms.

Order is pronounced in the open court on 30th January, 2024

Sd/-  
(Sanjay Garg)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 30<sup>th</sup> January, 2024***

JD, Sr. P.S.

Copy to:

1. The Appellant:
  2. The Respondent.
  3. ITO, Ward-1, Suri
  4. D.C.I.T, Range-Asansol
  5. DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata