



CWP-4720-2024 (O&M)

-1-

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

113

**CM-6583-CWP-2025 IN/AND
CWP-4720-2024 (O&M)
Date of Decision: 05.05.2025**

Divya Prakash Society (Regd.)

.....Appellant

Vs.

Income Tax Officer and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Deepak Agrawal, Advocate,
for the appellant.

Ms. Pridhi Jaswinder Sandhu, Junior Standing Counsel,
for the respondents.

SUDEEPTI SHARMA, J.

1. Prayer in application i.e. CM-6583-CWP-2025 is for preponement of the writ petition, which is fixed for 30.07.2025.
2. Notice of the application.
3. Ms. Pridhi Jaswinder Sandhu, Junior Standing Counsel, accepts notice on behalf of the respondents and raises no objection, if the application is allowed.
4. At request and with consent of learned counsel for the parties, hearing of this writ petition is preponed from 30.07.2025 to today itself.
5. Application is disposed of accordingly.

CWP-4720-2024 (O&M)

1. Prayer in the present writ petition is for issuance of a writ in the nature of mandamus for issuance of directions to the respondents to transfer the registration dated 24.09.2021 under Section 12A of the Income Tax Act,



CWP-4720-2024 (O&M)

-2-

1961, to the new Permanent Account Number AAIAD4798D in place of AADFD5972H for the period from Assessment Year 2022-23 to 2026-27.

2. Learned counsel for the petitioner contends that on 24.09.2021, the petitioner was granted registration under Section 12AA of the Income Tax Act, 1961, in Form No.10AC. He further contends that while undertaking online activity on the Income Tax Business Application Portal, the petitioner found messages conveying that the Permanent Account Number AADFD5972H is having the status of Firm, however, the petitioner being a Society must be recognized under the category of Association of Persons {AOP (Trust)}, the said messages were flashed during online activity on the income tax portal. Learned counsel further contends that after the allotment of new Permanent Account Number AAIAD4798D, the old Permanent Account Number AADFD5972H allotted to the petitioner merges with a new Permanent Account Number AAIAD4798D. He, therefore, prays that the directions be issued to the respondents to transfer the registration dated 24.09.2021 under Section 12A of the Income Tax Act to the new Permanent Account Number AAIAD4798D in place of AADFD5972H.

3. Per contra, learned counsel for the respondents argues on the lines of the reply filed on behalf of respondent No.1.

4. We have heard learned counsel for the parties and perused the file of this case.

5. In response to the writ petition, short reply dated 19.09.2024 of Sh. Sumit Kumar, Income Tax Officer (Exemptions), Ward – Rohtak, on



behalf of respondent No.1 has been filed. The relevant portion of the same is reproduced as under:-

“5. That the Assessee/Petitioner was earlier having PAN No. AADFD5972H which was categorized as 'Firm' and therefore in view of the Registration u/s 12A of Income Tax Act read with Form Rule 17A of Income Tax Rules, the requirement was that the assessee/petitioner should be a 'Society'. Therefore, the assessee/petitioner subsequently applied for new PAN Number under the category of 'Society' which was given by the competent authority vide PAN No. AAIAD4798D as per the request in Form 49A of the Income Tax Act.

6. That the Conditions for applicability of sections 11 and 12 are defined under Section 12A which is reproduced hereinbelow: -

“12A.(1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Principal Commissioner or Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later and such trust or institution is registered under section 12AA :

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—



(i) from the date of the creation of the trust or the establishment of the institution if the Principal Commissioner or Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(ii) from the 1st day of the financial year in which the application is made, if the Principal Commissioner or Commissioner is not so satisfied:

Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;

(aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;

(ab) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;



(ac) notwithstanding anything contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution,—

(i) where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020)], within three months from the first day of April, 2021;

(ii) where the trust or institution is registered under section 12AB and the period of the said registration is due to expire, at least six months prior to expiry of the said period;

(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;

(iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;

(v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;



¹⁰[(vi) in any other case, where activities of the trust or institution have—

(A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought;

(B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause 3C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,]

and such trust or institution is registered under section 12AB;

¹¹[b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, —

(i) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed¹²; and

(ii) the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below subsection (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed¹³;



(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under 14[sub-section (1) or sub-section (4) off that section;

*(c) [***]*

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:

Provided that the provisions of sections 11 and 12 shall apply to a trust or institution, where the application is made under—

(a) sub-clause (1) of clause (ac) of sub-section (1), from the assessment year from which such trust or institution was earlier granted registration;

(b) sub-clause (ii) of clause (ac) of sub-section (1), from the first of the assessment year for which it was provisionally registered:

⁶² [***]

⁶³ [***]

⁶⁴ [***]

7. *That the Procedure for obtaining the Registration u/s 12A has been defined under Section 12AA which is reproduced hereinbelow:-*

¹⁵ [12AA. Procedure for registration.— (1) The 16[Principal Commissioner or Commissioner], on receipt of an application for registration of a trust or institution made under clause (a) "[or clause (aa) 18[or clause (ab)]] of sub-section (1)] of section 12A, shall --



(a) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(i) shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution, and a copy of such order shall be sent to the applicant:

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

¹⁹*[(1A) All applications, pending before the*
²⁰*[Principal Chief Commissioner or Chief Commissioner] on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Principal Commissioner or Commissioner and the Principal Commissioner or Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.]*

(2) Every order granting or refusing registration under clause (b) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) ²¹[or clause (aa) ²²[or clause (ab)]] of sub-section (1)] of section 12A.]



²³[3) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) ²⁴[or has obtained registration at any time under section 12A. [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)]] and subsequently the Principal Commissioner or Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.

²⁵[4) Without prejudice to the provisions of sub-section (3), where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution:

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves



that there was a reasonable cause for the activities to be carried out in the said manner.]

8. *That the provision for registration u/s 12AA provides the only procedure for registration for availing the exemptions u/s 11 and 12 apart from Section 12AB. The provision mandates that an application shall be made to the Principal Commissioner or Commissioner who shall call for such documents or information as he thinks necessary for satisfaction about the genuineness of activities and may make any such inquiries which he may deem necessary.*

9. *That the assessee/petitioner has made no such application for registration u/s 12A for the purpose of availing exemption u/s 11 and 12 under the PAN No. AAIAD4798D.*

10. *That the provision of Section 12A and Section 12AA nowhere provides that the registration u/s 12A can be transferred from one assessee to another since the registration is independent in nature and granted to an assessee upon fulfilment of requirements. The registration is granted to an assessee being a trust/society or as the case may be upon determining their genuineness of activities which are determined from the documents.”*

6. A perusal of the above shows that the petitioner has not submitted any application to the Principal Commissioner or Commissioner for registration under Section 12A for the purpose of availing exemption under Sections 11 and 12 under the Permanent Account Number AAIAD4798D.

7. In view of the reply filed on behalf of respondent No.1, the moving of an application to the Principal Commissioner or Commissioner for registration under Section 12A for the purpose of availing exemption



CWP-4720-2024 (O&M)

-11-

under Sections 11 and 12 under the Permanent Account Number AAIAD4798D is the requirement as per the statutory provisions.

8. We, therefore, dispose of the present writ petition with a direction that in case the petitioner submits an appropriate application before Principal Commissioner or Commissioner for registration under Section 12A for the purpose of availing exemption under Sections 11 and 12 under the Permanent Account Number AAIAD4798D within one week from the date of passing of this order, respondents shall decide the said application by 15.06.2025.

9. Disposed of accordingly

(LISA GILL)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

05.05.2025
Virrendra

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No