Commissioner of Income Tax–Exemption v. Kush Innovative Foundation

ITA 115/2026 and ITA 119/2026

2026:DHC:1247-DB | 2026-02-12

Kush Innovative Foundation: direct registration direction set aside; activities and compliance require enquiry on conversion from provisional registration.

12A(1)(ac)(iii) | 12AB(1)(b) | 12AB(1)(c) | 80G

High Court of Delhi | Division Bench | Justice Dinesh Mehta | Justice Vinod Kumar

Assessment years: Not specified in supplied order

Scope of this order

Revenue secured reversal of the direct-registration direction; the trust's substantive entitlement remained open on remand.

01 FACTS OF THE CASE

The Commissioner rejected the trust's registration applications on 26 June 2024 after unanswered document requests of 22 February and 8 March 2024. The trust had held provisional registration for more than two years. On 12 February 2025 the Tribunal directed registration under sections 12AB and 80G; Revenue challenged that direct grant in two appeals.

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02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished a first provisional application from the application under section 12A(1)(ac)(iii). Section 12AB(1)(b) required enquiry into genuineness of activities and material compliance with other laws. The Tribunal's broad conclusion based on documents produced before it did not supply the necessary findings; section 80G also required enquiry into genuinely charitable activities.

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03 JUDICIAL DECISION

The Tribunal's order was set aside. Both registration applications were remanded to the Commissioner for lawful enquiry and decision, preferably within three months after receipt of a certified copy. The Court expressly left entitlement and the nature of the trust's activities undecided. The appeals and pending applications were disposed of.

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04 OUTCOME / IN WHOSE FAVOUR

Revenue secured reversal of the direct-registration direction; the trust's substantive entitlement remained open on remand.

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05 EXPERT COMMENTS

Identify the registration route — The trust was moving from provisional status under section 12A(1)(ac)(iii), not seeking its first provisional registration. That distinction explains why the Court required examination of actual activities and material compliance rather than relying only on the entity's stated objects.

Documents and findings are different requirements — Producing documents before the Tribunal did not justify a sweeping registration direction without the statutory enquiry and recorded findings. The practical evidentiary task on remand is to answer the Commissioner's specific requests and establish the activities and relevant compliance.

Do not turn remand into a finding of non-charitable conduct — The Court criticised the absence of scrutiny but expressly withheld a conclusion on entitlement or the nature of activities. It neither granted registration itself nor finally declared the trust ineligible.

Read the timing qualification accurately — The three-month period was expressed as preferable and runs from receipt of a certified copy. The note does not substitute a mandatory three-month period from pronouncement or assert that the remand has since been completed.

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SOURCE & VERIFICATION

High Court of Delhi official judgment PDF (DLHC011097252025_1_2026-02-12.pdf)

Six-page common judgment covering ITA 115/2026 and ITA 119/2026. Two supplied PDF variants have identical page text and rendered content; both original files and both dockets are retained.

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

Open cited source rendition

All 6 physical source pages read and visually inspected. SHA-256: f76f51304bd1a9044231cd9bc9c0c83c11614888d5df13e194f3f9b819c02bc6.

STATUTORY SCOPE

The judgment contrasts the statutory registration routes and applies the enquiry required for the application before it. Its references to periods and donor benefits describe the source judgment; this note does not certify current statutory eligibility or deduction rates.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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