

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI

**BEFORE SHRI. OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 1871 & 1872/Mum/2025
(Assessment Year: N.A.)

Smt. Asarbai Nihchaldas Dadlaney Trust 502, Nestor Court, Vinayak Society Compound, Old Police Lane, Off S. V. Road, Vile Parle West, Mumbai – 400067.	Vs.	CIT (Exemptions), Mumbai Room No. 601, 6 th Floor, Cumballa Hills, MTNL TE Building, Pedder Road, Dr. Gopala Deshmukh Marg, Mumbai – 400026.
PAN/GIR No. AAKTS6075P		
(Appellant)	:	(Respondent)

Assessee by	:	Ms. Kinjal Bhuta
Respondent by	:	Dr. K. R. Subhash (CIT DR)

Date of Hearing	:	05.05.2025
Date of Pronouncement	:	26.05.2025

ORDER

Per Kavitha Rajagopal, J M:

These are captioned appeals filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Exemption), Mumbai ('ld. CIT(E)' for short), in rejecting the registration u/s. 12A made in form 10AB of the Act, for the reason that the clauses mentioned in the trust deed specifies that the charitable funds received are proposed to be applied beyond Indian Shores.

2. As the facts are identical, we hereby pass a consolidated order by taking ITA No. 1871/Mum/2025 as a lead case.

ITA No. 1871/Mum/2025;



3. It is observed that this appeal has been filed belatedly with a delay of 306 days beyond the period of limitation for which the assessee had filed an affidavit for condoning the said delay. On perusal of the same, we deem it fit to hold that the assessee had 'sufficient cause' for the delay and we therefore condone the delay caused in filing the present appeal.

4. The assessee has raised the following grounds of appeal:

"1. The Ld. Commissioner of Income Tax (Exemption), Mumbai erred in rejecting the application made in Form 10AB u/s. 12A of the Act by exceeding the jurisdiction conferred u/s. 12AB of the Income Tax Act, 1961.

2. The Ld. Commissioner of Income Tax (Exemption), Mumbai erred in rejecting the appellants application for registration in Form 10AB u/s. 12A of the Income Tax Act, 1961, without appreciating that all the documents were submitted in the proceedings and that no amount was applied outside India in any of the previous years.

3. The Ld. Commissioner of Income Tax (Exemption), Mumbai erred in not allowing the appellants sufficient opportunity and in rejecting application despite an affidavit by the appellant trust that the trust deed shall be amended."

5. Briefly stated, the assessee trust is formed with the object of providing educational and medical assistance to unprivileged and for promoting access to quality education and providing affordable medical care for economically weaker sections. The assessee trust was registered u/s. 12A of the Act dated 15.05.2008 and had filed an application u/s. 12A dated 20.12.2022, where the assessee was granted provisional registration in form 10AC dated 27.12.2022 for A.Y. 2023-24 to 2025-26. Subsequently, the assessee filed for regularization in form 10AB dated 12.09.2023 before the ld. CIT(E). The ld. CIT(E) vide order dated 19.03.2024 rejected the assessee's application, for the reasons that on perusal of the trust deed, the objects of the assessee trust mentions that the trust funds will be applied even beyond Indian Shores and the same is not in accordance with the



provisions of Section 11(1) of the Act, which provides that the fund shall be applied for charitable purpose in India.

6. Aggrieved the assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).
7. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee has not applied any funds outside India in any of the previous years and further contended that the assessee has already filed an application u/s. 50A(1) of the Maharashtra Public Trust Act, 1950, for amending the trust deed as on 03.09.2024 and the same is pending before the Assistant Charity Commissioner, for necessary actions. The Id. AR further argued that the Id. CIT(E) does not have the jurisdiction to reject an application, for the reason that the objects of the trust apply beyond India at the stage of registration u/s. 12AB of the Act, as the said provision does not specify anything about the said restrictions. The Id. AR relied on the decision of the Delhi High Court in the case of *M. K. Nambyar Saarf Law Charitable Trust vs. Union of India*, [2004] 140 taxman 616 (Delhi), order dated 28.05.2004 and Tribunal decision in the case of *Income Tax Officer (Exemption) vs. JN Tata Endowment for the Higher Education of Indians*, [2024] 165 taxmann.com 758 (Mumbai - Trib.), order dated 23.08.2024. The Id. AR prayed that the Id. CIT(E) be directed to provide registration to assessee trust.
8. The learned Departmental Representative ('Id. DR' for short) on the other hand controverted the said fact and stated that the said decision relied upon by the Id. AR are on different facts, where Section 11(1)(c) of the Act is applicable in which case a



permission is granted by the board either by a general or special order, where the assessee can apply the fund for Indian students, who pursue education outside India. The ld. DR further stated that this is not applicable in the assessee's case and that the ld. CIT(E) has rightly rejected the registration of the assessee trust. The ld. DR relied on the order of the ld. CIT(E).

9. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee's registration u/s. 12AB was rejected, for the purpose that the objectives of the assessee trust extend to application of the trust fund within as well as outside India. The ld. AR for the assessee fairly acceded to the same and stated that the assessee has already filed an application for amending the trust deed before the Assistance Charity Commissioner vide its application dated 07.09.2024 filed u/s. 50A(1) of the Maharashtra Public Trust Act, 1950 and the same is pending for disposal. It is also observed that the case laws relied upon by the assessee are on different factual background, where the application of the income outside India for charitable or religious purpose is in accordance with Section 11(a)(c) which is for application of the income outside India with the general or special order of the board and therefore, the case laws relied upon by the ld. AR are distinguishable on the facts. Nevertheless, it is observed that the assessee trust has already filed an application for amending its objectives in accordance with Section 11(1)(a) of the Act, where the income is applied only to such purposes within India.
10. Considering the above circumstances, we deem it fit to allow the assessee's appeal with the direction that the ld. CIT(E) shall consider the application of the assessee in form



10AB after considering the amended trust deed proposed to be filed by the assessee. The Id. CIT(E) is directed to grant registration on the basis of the submission of the assessee, on the merits of the facts and in accordance with law. The assessee is also directed to furnish the amended trust deed as and when it is received by the assessee from the Assistant Charity Commissioner. We hereby decide the issue in hand with the above observation.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

ITA No. 1872/Mum/2025

12. The findings recorded in ITA No. 1871/Mum/2025 shall apply mutatis mutandis to this appeal also.

13. In the result, both the appeals filed by the assessee are allowed for statistical purpose.

Order Pronounced under Rule 34(4) of the ITAT Rules by placing result on the notice board on. 26.05.2025

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

Mumbai; Dated: 26.05.2025
Karishma J. Pawar (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,



ITA No. 1871 & 1872/Mum/2025
Smt. Asarbai Nihchaldas Dadlaney Trust

(Dy./Asstt.Registrar)
ITAT, Mumbai