

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA Nos.246 & 245/SRT/2025**

**(Assessment Years: 2025-26)**

**(Hybrid Hearing)**

Shree Surat South Jari Mandal, B-2271, Gopipura, Parsiwad, Surat - 395001	<b>Vs.</b>	The CIT(Exemption), Ahmedabad
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAVTS8551K</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri P. M. Jagasheth, CA
<b>Respondent by</b>	Shri Aashish Pophare, CIT-DR
<b>Date of Hearing</b>	04/06/2025
<b>Date of Pronouncement</b>	11/06/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

These two appeals emanate from the order dated 02.09.2024 and 03.09.2024 passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad [in short "CIT(E)"], wherein CIT(E) rejected assessee's application filed in Form No.10AB u/s 12A(1)(ac)(iii) of the Income-tax Act (in short 'the Act') and also cancelled the provisional approval u/s 80G(5)(iii) of the Act. Since the assessee as well as the assessment year in these two appeals are same, with the consent of both parties, the appeals are clubbed and heard together and are decided by passing a common order for the sake of convenience and brevity.

2. The grounds of appeal raised by the assessee in ITA No.246/SRT/2025 are as follows:

*“1. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Exemption), Ahmedabad has erred in rejecting Application for grant of final registration of trust u/s. 12A(1)(ac)(iii) of the Income Tax Act, 1961 and the provisional approval u/s. 12A(1)(ac)(iii) granted earlier has also been cancelled.*

*2. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Exemption), Ahmedabad has erred in not granting adequate opportunity to hear and passed the order, hence, the principal of natural justice is not abide.*

*3. On the facts and in the circumstances of the case as well as the law on the subject, the appellant Trust is qualifying for registration u/s.12A(1)(ac)(iii) of the Income Tax Act, 1961.*

*4. It is therefore prayed that the CIT(Exemption) should be directed passed u/s. 12A(1)(ac)(iii) of the Income Tax Act, may please be set aside to the file of the CIT(Exemption) with appropriate direction*

*5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.”*

3. The facts of the case in brief are that the assessee filed an application for registration/incorporation in Form No.10AB u/s 12A(1)(ac)(iii) of the Act. The CIT(E) had issued notices of hearing on 03.07.2024 and 06.08.2024 and requested assessee to furnish details and documents. The applicant had neither filed any submission/details nor sought any adjournment. The CIT(E) relied on the decisions of Hon’ble Supreme Court in case of CIT vs. Dawoodi Bohra Jamat, in Civil Appeal No.2492 of 2014 and M/s New Nobel Educational Society, in Civil Appeal No.3795 of 2014. The CIT(A) has thereafter observed that due to failure of assessee to file documentary evidences, he was unable to be satisfied about (i) genuineness of the activities of the institution, (ii) that

the activities of trust or institution are in consonance with the objects of the trust or institution and (iii) that other laws material for the purpose of achieving objects are complied with. The CIT(E) rejected the application filed in Form 10AB for approval sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act and also cancelled the provisional registration.

4. Aggrieved by the order of CIT(E), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) submitted that as the case has been decided without considering the merit of the case, he requested that the matter may be set aside to the file of CIT(E) for considering the case on merit. The Id. AR of the assessee submitted that the *ex parte* order by CIT(E) is clearly violative of the principles of natural justice. He, therefore, requested that in the interests of justice, one more opportunity should be given to the assessee to plead its case on merit before the CIT(E).

5. On the other hand, the learned Commissioner of Income-tax - Departmental Representative (Id. CIT-DR) for the revenue did not have any objection if the matter is remitted to the file of CIT(E) for fresh adjudication.

6. We have heard both parties and perused the materials available on record. The CIT(E) issued two notices on 03.07.2024 and 06.08.2024 but there was no compliance from the assessee. The CIT(E) has observed that the assessee failed to file documentary evidence to enable him to satisfy about the genuineness of the activities of the trust and whether the activities are in consonance with the objects of the trust. The Id. AR has contended before us

that the assessee is ready to submit all details and evidences needed by the CIT(E) and one more opportunity may be given to the assessee. We find that assessee could not pursue his case before the CIT(E) by filing necessary evidences and documents. We are of the view that one more opportunity should be given to the assessee to file relevant documents/evidences and to plead its case on merit before the CIT(E). It is settled law that principles of natural justice requires that the affected party is granted sufficient opportunity of being heard to contest its case. Therefore, without delving much into the merits of the case, in the interest of justice, we set aside the order of CIT(E) and remit the matter back to the file of CIT(E) with a direction to pass *de novo* order in accordance with law after granting adequate opportunity of hearing to the assessee. The assessee is directed to be more vigilant and diligent and to furnish all the details and explanations as needed by the CIT(E) by not seeking adjournment without valid reasons. With these directions, the grounds of appeal are allowed for statistical purposes.

7. In the result, appeal of the assessee is allowed for statistical purpose.

**ITA No.245/SRT/2024 (AY:2025-26):**

8. The grounds of appeal raised by the assessee in ITA No.245/SRT/2024 are as follows:

*“1. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Exemption), Ahmedabad has erred in rejecting Application for registration of trust u/s800/5 of the Income Tax Act, 1961 also cancelled provisional registration u/s.80G(5)(iii) of the Act.*

*2. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Exemption), Ahmedabad has erred in not granting adequate opportunity to hear and passed the order, hence, the principal of natural justice is not abide.*

*3. On the facts and in the circumstances of the case as well as the law on the subject, the appellant Trust is qualifying for registration u/s.800(5)(m) of the Income Tax Act, 1961.*

*4. It is therefore prayed that the CIT(Exemption) should be directed passed u/s.800(5)(iii) of the Income Tax Act, may please be set aside to the file of the CIT(Exemption) with appropriate direction*

*5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.”*

9. The appeal filed by the assessee is barred by limitation by 116 days in terms of provisions of section 253(3) of the Act. The assessee has filed an affidavit giving reasons for delay in filing the appeal of appeal before the Tribunal. In the affidavit, the assessee stated that CIT(E) has passed order u/s 250 of the Act on 02.09.2024. The appeal filed before this Tribunal was required to be filed within 60 days, i.e. on or before 02.11.2024, however, it could not be filed because the application for registration u/s 80G(5)(iii) of the Act had been filed. The assessee stated that notices were issued to the e-mail addresses, i.e., 'fdtamkuwala@outlook.com' and 'dtamaku@gmail.com', which were not regularly used by its consultant. It is submitted that there was no option available for mentioning e-mail Id in application and its consultant could not check e-mail timely. When the assessee came to know about the rejection of application u/s 80G(5)(iii) of the Act, it downloaded the order and immediately filed appeal before the Tribunal on 26.02.2025. As a result, the appeal was delayed by 116 days. The assessee submitted that the delay in

filing appeal is due to good and sufficient reasons, therefore, the delay in filing appeal may be condoned.

10. On the other hand, the learned Commissioner of Income-tax - Departmental Representative (Id. CIT-DR) for the revenue submitted that the Tribunal may decide the issue as it thinks fit.

11. We have heard both the parties on this preliminary issue of delay of 116 days. We find that assessee was neither negligent nor deliberate in filing the present appeal before the Tribunal. The reasons given in the affidavit for condonation of delay would constitute "sufficient cause" for delay in filing this appeal. We, therefore, condone the delay and admit the appeal for hearing.

12. In this appeal, the CIT(E) has issued two notices of hearing, i.e., on 06.07.2024 and 09.08.2024 respectively, but the assessee neither filed any submission nor sought any adjournment. Hence, relying upon the decision in case of Dawoodi Bohra Jamat (supra) and New Nobel Educational Society (supra), he rejected the application in Form No. 10AB for approval u/s 80G(5)(iii) of the Act and provisional approval was also cancelled. We have already set aside the order of CIT(E) in rejecting application for registration u/s 12AB(1)(ac)(iii) of the Act. Hence, following the reasons given in ITA No. 246/SRT/2025 (supra), the order of CIT(E) are set aside and remitted to the file of CIT(E) for fresh adjudication after granting reasonable and sufficient opportunity of being heard to the appellant. For statistical purposes, this appeal of the assessee is also treated as allowed.

13. In the result, appeal of the assessee is allowed for statistical purposes.
14. In the combined result, the appeals filed by the assessee are allowed for statistical purposes.

Orders are pronounced under provision of Rule 34 of ITAT Rules, 1963  
on 11/06/2025.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat

दिनांक/ Date: 11/06/2025

SAMANTA

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**// TRUE COPY //**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat