

**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.174 & 175/SRT/2025

(Hybrid hearing)

Jainam Charitable Trust, 02, Samta Bungalows, Nehru Nagar Dumas Road, Surat - 395007	Vs.	The CIT (Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAETJ2070K		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Sapnesh Sheth, CA
Respondent by	Shri Ravinder Sindhu, CIT-DR
Date of Hearing	17/07/2025
Date of Pronouncement	21/07/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

These two appeals emanate from the order dated 22.10.2024 passed by the Commissioner of Income-tax (Exemption), Ahmedabad rejecting applications filed for registration u/s 12A and approval u/s 80G(5) of the Income-tax Act, 1961 (in short, 'the Act'). Since the assessee is same and issues are related, with consent of both parties, these appeals were clubbed and heard together and disposed of by a common order for the sake of convenience and brevity.

2. The assessee in its appeal ITA No.174/SRT/2025 has raised the following grounds of appeal:

"1. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemption) has erred in

rejecting the application filed by the assessee trust without granting reasonable opportunity of hearing.

2. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the Appellant Trust is form 10AB for grant of approval under clause (iii) of first proviso to section 80G(5) of the I.T. Act.

3. It is therefore prayed that order of Id. Commissioner of Income-tax (Exemption) rejecting application of assessee may please be quashed.

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

3. The appeals filed by the assessee are late by 48 days in terms of provisions of section 253(3) of the Act. The assessee has filed affidavits giving similar reasons for delays in filing both appeals before this Tribunal. In the affidavit, the assessee stated that the delay was primarily due to the assessee's lack of knowledge about the provisions of the Income-tax Act. The assessee-trust was completely unaware that there was an option to file an appeal against the rejection order passed u/s 80G(5)(iii) of the Act. The assessee submitted that the CBDT Circular No.7/2024, dated 25.04.2024, which provided an extended timeline for filing certain Form No.10A/10AB upto 30.06.2024; and appellant was under genuine belief that its case is covered by the said circular. However, case of assessee was not covered by the Circular. Thereafter, upon receiving accurate advice on the scope of the Circular, the assessee immediately filed an appeal before this Tribunal. The assessee submitted that the delay in filling appeal was neither intentional nor deliberate. The

learned Authorized Representative (Id. AR) of the assessee requested that the appeals may be condoned in the interest of justice and fair play.

4. 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 case, as it things fit.

5. We have heard both parties and perused the materials available on record. We find that the delay of 48 days in filling appeals, was neither intentional nor deliberate. The reasons given in the affidavit would constitute "sufficient cause" for delay in filing these appeals. We, therefore, condone the delay and admit both appeals for hearing.

6. Brief facts of the case 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 25.07.2024 and 13.09.2024 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.

7. 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, 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).

8. 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.

9. We have heard both parties and perused the materials available on record. The CIT(E) issued two notices on 25.07.2024 and 13.09.2024 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 require 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.

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

ITA No.174/SRT/2024:

11. Grounds of appeal raised by the assessee in ITA No.175/SRT/2024 are as under:

“1. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the assessee trust without granting reasonable opportunity of hearing.

2. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the Appellant Trust in form 10AB u/s 12A(1)(ac)(iii) of the I.T. Act, 1961.

3. It is therefore prayed that order of Id. Commissioner of Income-tax (Exemption) rejecting application of assessee may please be quashed.

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

12. In this appeal, the CIT(E) has issued two notices of hearing, i.e., on 02.08.2024 and 01.10.2024 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. 175/SRT/2025 (supra), the order of CIT(E) is also 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.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 21/07/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 21/07/2025

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