

IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member**

ITA No: 242 & 243/SRT/2025

Shri Vidhyasagar Sant Nivas Trust 4-C Prastavna Pratishtha Complex, Parle Point, Surat-395007, Gujarat, India PAN: AAUTS1143E (Appellant)	Vs	CIT(Exemption), Ahmedabad (Respondent)
--	----	---

**Assessee Represented: Shri Sapnesh Sheth, CA
Revenue Represented: Shri Ashish Pophare, CIT-DR**

Date of hearing : 30-06-2025
Date of pronouncement : 24-07-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the separate orders dated 28.12.2024 and 12-02-2025 passed by the Commissioner of Income Tax [Exemption] denying registration under section 12AB and under section 80G(5) of the Income Tax Act 1961 (hereinafter referred to as 'the Act').

2. The brief fact of the case is that the assessee filed Form 10AB for registration of the Trust u/s. 12AB of the Act. On perusal of the objects of the Trust, the Ld. CIT(E) found that the objects of the Trust are confined for the benefit of 'Digamber Jain Community' and not for the benefit of Public at Large, therefore a show cause notice dated 19-12-2024 was issued seeking explanation from the assessee.

3. In response, the assessee filed a reply vide letter dated 03-10-2024 as follows:

We herewith submit as under:

1. The Trust operates a health center for the general public, offering services at subsidized rate such as physiotherapy and eye checkup facilities etc. The Trust's activities are conducted on the first floor of Vidhya Sudha Bhavan, Parle Point, Surat-395 007.

2. Trust started its activities in March 2024.

3. Copy of Trust Deed enclosed herewith. Copy of English conversion of Trust deed enclosed herewith.

4. Copy of Audit report along with Form No. 10B/10BB for A.Y. 2023-24 & 2024-25 enclosed herewith.

5. We herewith enclosed the copies of Certificate in Form No. 10AC. No any registration U/s 12A had been granted to assessee before 01.04.2021. No object of the trust has been change/modify after 01.04.2021

6. Clause No. 23 of the Trust Deed states that the Trust is irrevocable.

7. Assessee banks with State bank of India. C.A No. 37723339266.

Copies of bank statements enclosed herewith.

8. There have been no violations of the conditions outlined in section 12AB(4) explanations, clauses (a) to (e), section 13(1) clauses (a) to (c), or the first proviso to section 2(15). Furthermore, no actions have been taken

by the department regarding any defaults under these provisions or any other applicable laws. No Violation has been made of conditions specified under section 12AB(4) explanation, clause(a) to clause(e),13(1) clause (a) to (c), Ist proviso to section 2(15) and No any action has been taken by the department for any default under these provisions or for any other law in force.

9. No demand has been raised by the Income-tax during the last 3 Year.

10. The Trust is dedicated to the upliftment of the general public, with no specific objectives aimed at serving any particular caste.

11. Copies of Adhar Cards and Pan Cards of the Trustee are enclosed herewith.

12. No action has been taken against any member/office bearer / Trustees of the Trust for entity for anti-national activity/ terrorist activities

13. Copies of ledger accounts of Expenditures for last 2 years enclosed herewith.

14. Copy of latest Electricity bill enclosed herewith for your kind verification.

15. No immovable property owned by the trust.

16. We herewith enclosed the under taking as per proforma Ann-1.

17. Trust runs health center for general public at subsidies rate like Physio therapy center. Eye checkup center etc. However, no any special permission is required for these type of activities.

18. Trust does not run any Gaushala.

Please kindly find the attached details and conclude the matter.

4. The above reply was considered by the Ld. CIT(E) and held that the objects of the Trust are found to be confined for the benefit of "Digamber Jain Community" which is a specified violation under clause (d) below to Explanation to Section 12AB(4) of the Act. Thus

rejected the application for final registration u/s. 12AB of the Act and also cancelled provisional registration granted to the assessee.

5. Aggrieved against the same, the assessee is in appeal before us raising 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 not granting permanent registration to the assessee trust by rejecting the application filed in Form 10AB u/s 12A (1)(ac) (iii) of the I.T Act 1961 on the ground that there will be violation of clause (d) below explanation to section 12AB(4) of the I. T Act 1961.
2. It is therefore prayed that order of Id. Commissioner of Income-tax (Exemptions) rejecting application of assessee may please be quashed.
3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.

6. Ld. Counsel appearing for the assessee submitted before us a Paper Book containing the copy of the Trust Deed, English Translated Copy of the Trust Deed. The objects of the assessee Trust are as follows:

1. Digamber Jain Temple, Upashraya, Swadhyaya, Bhavan, Santbhavan etc. may be constructed and managed.
2. According to Digamber Jain theory, arrangements can be made for worship and rituals in a Jain temple/santnivas. Can conduct religious programs, religious orders etc. for the propagation of Janism. According to pure Terapanti Amanya, the temple and Santa Bhavan, Swadhyaya Bhavan will be able to perform activities and programs with the order and blessing of Acharya Vidhyasagar as well as their disciple Munipungav Sudhasagara.

3. To organize religious camps by producing or publishing books, literature, magazines, pamphlets, photos, Albums, Odio-Videos for the propagation of Digamber Jainism.
4. Human values such as spiritual or religious knowledge, compassion, Vision, character non-violence, survival can work for cultivation.
- 5 Can construct cages for dumb animals. Fodder for animals and birds can be arranged.
6. To do the work of social upliftment and to make efforts to remove evils and superstitions in the society.
7. Can establish educational institution like schools, colleges, etc. Also can help students financially. Can do all activities related to education.
8. Can do all activities related to medical. Can establish institutions like Hospital, Dharmarth clinic, Nursing home, etc.
9. Can be able to do useful work for society by constructing halls, dharmashala, rest houses, parabs, oldagehome, etc.
10. It can help the needy person of the society during natural calamities like earthquake, rail, fire, drought, hurricane as well as man-made calamity.
11. Will be able to perform welfare activities in various fields of public life.
12. Can help the poor and needy person as much as possible.
13. Can help blind, deaf, dumb persons. Can provide necessary equipment and help to person who is unable to earn money. Will try to eliminate unemployment.
14. Can do activities related to de-addiction.

15. Can be able to provide education scholarship, household help, medical assistance and business employment helps to financially weaker religious brothers and sisters of Digamber Jain Society and devotees.

6.1. The assessee also produced before us copy of the Income Tax expenditure statement with year ending 31-03-2023 and 31-03-2024 wherein no expenses made against religious activities by the assessee Trust. Ld. Counsel further relied upon the decision of the Supreme Court in the case of CIT Vs. Dawoodi Bohara Jamat [2014] 43 taxmann.com 243 (SC) and Co-ordinate Bench decision in the case of Mar Baselius Orthodox Syrian vs. CIT(E) [2023] 156 taxmann.com 548 (Surat-Trib.), Shree Mahavideh Charitable Trust Vs. CIT(E) [2025] 174 taxmann.com 540 (Surat-Trib.), Sunni Muslim Jamat Aamena Madressa Ebdatgah Waqf Committee Vs. CIT(E) [2024] 161 taxmann.com 555 (Surat-Trib.) and Hon'ble High Court of Gujarat in the case of CIT(E) Vs. Bayath Kutchhi Dasha Oswal Jain Mahajan Trust [2016] 74 taxmann.com 199 (Gujarat).

6.2. Thus Ld. Counsel requested to set aside the order passed by Ld. CIT(E) and direct him to grant registration u/s. 12AB of the Act and also u/s. 80G(5) of the Act to the assessee Trust.

7. Per contra Ld.CIT-DR appearing for the Revenue, supported the order passed by Ld. CIT(E) and requested to confirm the same.

8. We have heard rival submissions and perused the materials available on record. In the present case, the objects of the Trust is extracted in Paragraph 6 hereinabove wherein Serial Nos. 1 to 3 are relating to particular Caste and Community. However the

remaining objects Nos. 4 to 14 are not relating to particular community but for Public at Large. Thus the objects enumerated are both religious to 'Digamber Jain Community' and charitable activities to 'Public at Large'. Thus mixed objects by the Trust.

8.1. Therefore the solitary question that arise for consideration is whether a Trust created before 01-04-2021 can be denied registration under section 12AB of the Act and by invoking the provisions of Section 13(1)(b) of the Act? This issue is no more res integra since the Jurisdictional High Court Judgment in the case of CIT(E) vs. Jamiatul Banaat Tankaria reported in [2024] 168 taxmann.com 35 held that the provisions of Section 13 of the Act would be attracted only at the time of assessment, since the quantum of expenses made for religious and common purposes can be determined from Profit and Loss accounts only and not at the time of granting registration u/s. 12A of the Act following Jurisdictional High Court decision in the case of CIT v. Bayath Kutchhi Dasa Oswal Jain Mahajan Trust and by observing as follows:

“5. Learned Senior Standing Counsel Ms. Maithili Mehta for the Appellant revenue submitted that the order of ITAT is erroneous because the ITAT has erred by misinterpreting the decision of Hon'ble Supreme Court in Dawoodi Bohara Jamaat (supra) and has wrongly noted that the Hon'ble Supreme Court has held that Section 13(1)(b) would apply only at the time of grant of exemption u/s 11 and not at the time of grant of registration u/s 12A of the Act. Further, the ITAT has not considered the fact that decision of Hon'ble Supreme Court in Dawoodi Bohara Jammam (supra) was rendered in case of a composite trust/institution i.e. a trust which was both charitable as well as religious trust.

6. We have noticed that the ITAT has decided the issue as under:

"5. We have gone through the decision of Hon'ble Apex Court in the case of Dawoodi Bohara Jamaat (supra) and we find that the Id. CIT (Exemption) has totally mis-appreciated the decision rendered by the Hon'ble Apex Court in the said case. The Hon'ble Apex Court, we find, in the said case had categorically

held that Trust with charitable objects, which existed for the benefit of a particular religious community qualified as charitable entity serving the public at large and this was sufficient for grant of registration under Section 12A of the Act, and the provisions of Section 13(1)(b) of the Act would be attracted only at the time of granting exemption to the assessee, wherein if it was found that the trust existed for the benefit of a particular religious community only, the exemption under section 11 was to be denied to the assessee. The Hon'ble Apex Court, therefore, categorically found that as per the provisions of law, section 13(1)(b) could not be applied for denying the grant of registration, but was to be applied only while granting denying exemption to the assessee.

6. It is pertinent to note that the Hon'ble Apex Court has categorically held in the said decision that section 13(1)(b) comes into picture and is to be applied only when the eligibility of exemption of income in terms of provisions of section 11 is to be determined and not at the time of grant of registration. The Hon'ble Apex Court has categorically stated that the assessee has to first cross the hurdle of being eligible to exemption under section 11 by obtaining a certificate of registration under section 12A in this regard. Having crossed this hurdle, only then the provisions of section 13(1)(b) would come into picture, and a trust which is for the benefit of particular community, but its objects are otherwise charitable, is a valid trust for the purpose of grant of registration.

7. The Id CIT(Exemption), in the present case, we find, has only picked a portion of the order of the Hon'ble Apex Court, wherein it has been held that the provisions of section 13(1)(b) of the Act would be applicable to a trust with mixed objects i.e. both charitable and religious. But he has failed to take note of the finding of the Hon'ble Apex Court that section 13(1)(b) would apply only at the time of grant of exemption under section 11, and not at the time of grant of registration under section 12A of the Act.

8. Our view is further supported by the decision of the Hon'ble jurisdictional High Court in the case of CIT v. Bayath Kutchhi Dasa Oswal Jain Mahajan Trust, (2017) 8 ITR-OL 494 (Guj) wherein on the issue of denial of grant of registration u/s 12A of the Act by invoking section 13(1)(b) of the Act, it was categorically held that the provisions of section 13 would be attracted only at the time of assessment and not at the time of grant of registration. The relevant finding of the Hon'ble High Court at para 8 of his order is as under.

"8. Thus, very premise for the Commissioner to come to the conclusion that the objects of the trust were confined for the benefit of a religious community, is incorrect. Thereafter to suggest that the activities were earned out only for such purposes would be entering in the realm of granting exemptions in terms of section 13 of the Act, which would be the task of the Assessing Officer to be undertaken at the time of assessment on the basis of material that may be brought on record."

9. Even otherwise, we have gone through the objects of the trust, which were placed before us in the "statement of facts" which are as under:

"1. Propagation and campaign of any sort of Religious and worldly cultivated activities, Gaining and education, to maintain and administer Urdu English &

Arabic Language cultivation and training, Cultivation of craft and industrial training.

2. To do welfare activities for upbringing and development of each section of the society.

3. To establish Children Nurseries, Primary schools, High schools, Colleges, Madressa, Masjid boarding houses, Hospitals, Dispensaries etc. And for that accommodating fixed assets and to manage the same thereby. And to do every land of charitable activities.

4. To make necessary arrangements for accommodation of poor people.

5. To help the Blind, Weak, Feverish people and those poor people who cannot run their lives.

6. To give Scholarships to Muslims Students for their studies and do make provisions so as they can get the religious education.

7. To give medical assistance in the events of requirement irrespective of caste and creed and to organise medical camps.

8. To help the post, unhappy, orphan and economical poor classes and to help in burial and funerals.

9. Cottage Industries, Rural Industries, Women Industries and to run each such activities to remove unemployment with the help of the government"

10. The Ld. CIT(Exemption) has referred to object at S. no 6 which is scholarship to Muslim students for their studies and to make provision so can get religious education for arriving at his finding that the objects are for the benefit of a particular religious community so as to invoke section 13(1)(b) of the Act. Further we find that the Ld. CIT(Exemption) notes that otherwise the objects are charitable in nature except for the aforestated object. As per section 13(1)(b) exemption u/s 11 is denied if the trust is created or established for the benefit of a particular religious community. With majority of the objects found to be not catering to a particular community and no finding of the assessee actually catering for the benefit of a particular community, there is no case for invoking section 13(1)(b) of the Act in the present case. Therefore, we hold that even on merits the Ld.CIT(Exemption) was wrong in holding that section 13(1)(b) was applicable in the facts of the present case.

11. In view of the above, we hold that the objects of the trust are not wholly for the benefit of a particular religious community, but are largely charitable in character for general public at large, and for the purpose of granting registration under section 12A, the provision of section 13(1) (b) cannot be referred to, which is to be applied only when granting the exemption to the trust.

12. The order of the Id.CIT(Exemption) denying grant of registration is accordingly set aside, and the Ld. CIT (Exemption) is directed to grant the assessee-trust registration under Section 12A of the Act.

13. In the result, the appeal of the assessee is allowed."

7. In view of the findings recorded by the Tribunal, supported by decision of this Court in case of Commissioner of Income-tax (Exemptions) v. Bayath Kutchhi Dasha Oswal Jain Mahajan Trust (2017) 8 IRT-OL 493 (GUJ)/[2016] 74 taxmann.com 199/243 Taxman 60 (Gujarat) that the objects of the trust are not holly for the benefit of a particular religious community, but are largely charitable in character for general public at large and for the purpose of granting registration under 12A of the Act, the provision of section 13(1)(b) cannot be referred to. Section 13(1)(b) is to be applied while granting exemption to the trust. In view above finding, we do not find any question of law much less any substantial question of law arises for consideration."

9. The above judgments will hold good to a Trust created before 01-04-2021. Since the assessee has to first cross the hurdle of being eligible to exemption under section 11 by obtaining a certificate of registration under section 12AB of the Act. Having crossed this hurdle then after the provisions of Section 13(1)(b) will get attracted whether the trust spendes for the benefit of particular community, more particularly when the trust having mixed objects in it. Therefore respectfully following the above judicial precedents, the grounds raised by the assessee is hereby allowed. The matter is restored to the file of Ld. CIT (Exemption) with a direction to grant Final Registration u/s. 12AB of the Act, after giving due opportunity of hearing to the assessee and in accordance with law.

10. In the result, **the appeal filed by the Assessee in ITA No. 242/SRT/2025 is allowed for statistical purpose.**

11. ITA No. 243/SRT/2025 is against denial of registration u/s. 80G(5) of the Act for the sole reason that registration u/s. 12AB was denied to the assessee Trust. Since the denial of registration of the Trust u/s. 12AB has been already set aside by order of this Tribunal in ITA No. 242/SRT/2025, This impugned order passed

u/s. 80G(5) is also set-aside back to the file of Ld. CIT(E) with a direction to grant final registration u/s. 80G(5) of the Act, after giving due opportunity of hearing to the assessee and in accordance with the provisions of law.

12. In the result, **the appeal filed by the Assessee in ITA No. 243/SRT/2025 is hereby allowed for statistical purpose.**

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 24-07-2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 24/07/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
सूरत