

आयकरअपीलीयअधिकरण, रायपुर न्यायपीठ,रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्रीअरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 60/RPR/2025

(निर्धारण वर्ष Assessment Year: N.A.)

Al Aqsa Foundation Faizane Madina Masjid Plot Sanjay Nagar Chhattisgarh - 492001	v s	CIT (Exemption), Bhopal Room No. 201, II Floor, REAC Bhopal MP - 462016
PAN: AAKTA4488L		

आयकर अपील सं. / ITA No: 76/RPR/2025

(निर्धारण वर्ष Assessment Year: N.A.)

Al Hasan Foundation House No 07, Mahuari para, Bhaiyathan Karaunda Mumnda Surajpur, Bhaiyathan, Surguja, CG - 497231		CIT (Exemption), Bhopal Room No. 201, II Floor, REAC Bhopal MP - 462016
PAN: AAJTA0609A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by		Shri Ankit Chokshi, CA (Virtual Hearing)
राजस्व की ओर से / Revenue by		Shri S. L. Anuragi, CIT- DR
सुनवाई की तारीख / Date of Hearing		30.07.2025
घोषणा की तारीख / Date of Pronouncement		31.07.2025

आदेश / ORDER

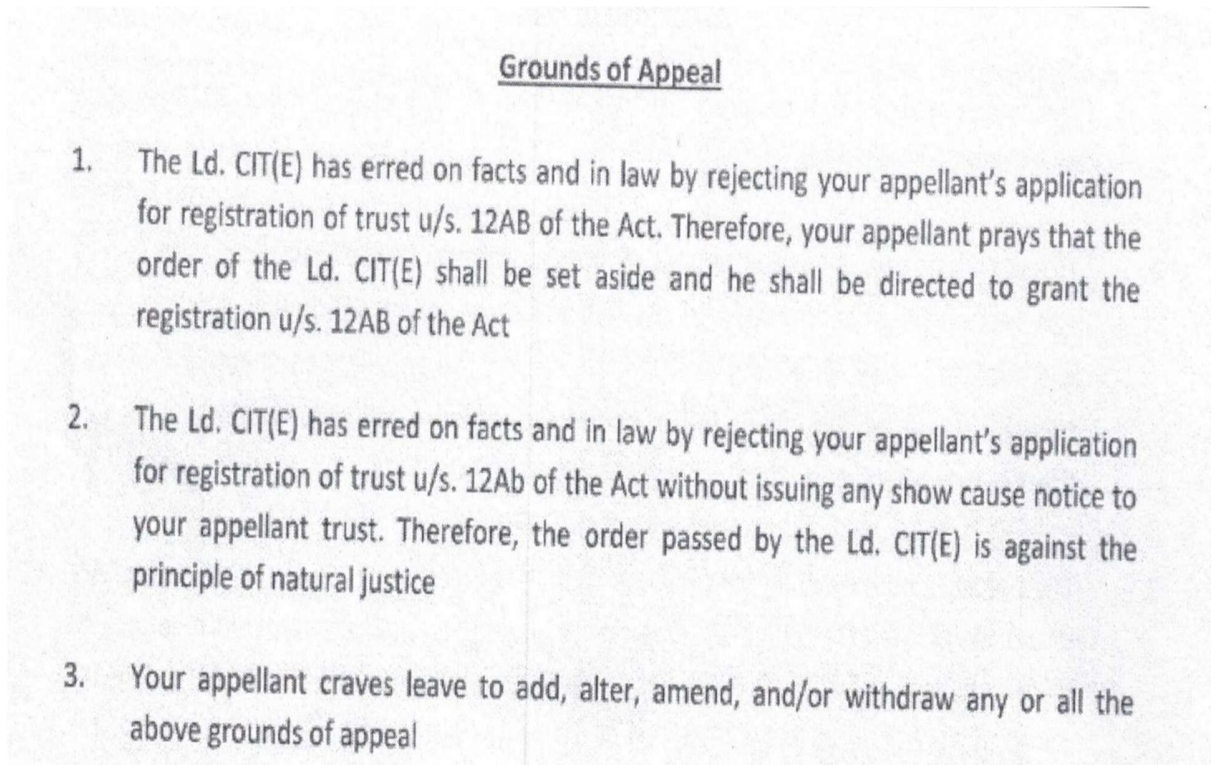
Per Arun Khodpia, AM:

The captioned appeals filed by the assesseees are directed against the separate orders of the Commissioner of Income Tax (Exemption), Bhopal, [in short "Ld. CIT(E)"], both dated 27.12.2024, rejecting the application of captioned assessee's in form 10AB for registration U/s 12AB of the Income Tax Act, [in short "The Act"].

2. In both the foresaid matters, identical grounds of appeal are raised by the assessee under similar facts and circumstances against commonly worded orders by Ld.CIT(E), therefore, these matters are heard together and disposed of by this common order.

3. **ITA 60/RPR/2025** has been taken up as the lead matter and our decision therein shall apply *mutatis mutandis* to the other matter i.e., ITA 76/RPR/2025.

4. The grounds of appeal assailed by the assessee in ITA 60/RPR/2025, reads as under:



5. The brief facts of the case as described by the Ld. CIT(E) in his order dated 27.12.2024 along with his decision are extracted herein below for the sake of completeness of facts:

Annexure (mentioned in row-9 above)

The assessee has applied in Form 10AB for registration u/s 12AB under the new provision of Income Tax Act, 1961. Consequently, opportunity letters were issued to the assessee and various documents/details were called for, to process the said application and to verify the objects and activities of the assessee. The details of opportunity letters and response received in compliance thereof are as under;

S.N.	Details of Notices issued in respect of registration u/s 12AB		
	Date of opportunity letters issued	Hearing fixed on	Reply Status
1.	11.09.2024	23.09.2024	No Reply Received
2.	25.09.2024	01.10.2024	Reply Received in 02 Parts Dated: 01.10.2024 & 17.10.2024

2—Vide above referred letters various documents/information were called to ascertain the genuineness of the activities of the assessee society and its suitability to obtain approval u/s 12AB of the Act. The assessee has submitted documents/information in response to reminder letter dated: 25.09.2024 issued by this office which have been considered and are placed on record.

3—As per the query no. 4 of letter dated 23.09.2024, the assessee was specifically asked to provide 'note on the main areas of your charitable/religious activities carried out during the last 3 years with documentary proof, location of the activities and photos. The assessee has submitted requisite details of notes on activities for F.Y. 2024-25 as under.

"1--Residential Madrasa: A residential Madrasa is a like of boarding School

where the students resides and get an Islamic education like Quran, hades, Arabi, Farsi language free of cost. All the facilities such as residing, fooding, medical, and other basic requirements are provided free of cost to the students. All these expenses are maintained by the donations received from the generous people of the locality. At present, we run 3 residential madrasas.

A- FAIZAN E USMANE GANI-AT Chikhli Petrol Pump Ke Samne. Talab Ke Paas Rajnandgaon Chhattisgarh 491441, In this madrasa, around 63 Students get an Education. To Maintain this we have a total of 12 Staff-Principal -2, Teachers - 6, Donation Promoters -1, Cook- 1, Cleaner-1, Gate Keeper - 1

B. JAMIATUL MADINA SHER ALI AAGA RAIPUR - AT Raza Hall, Near Ashraful Auliya Masjid,

For, Al Aqsa Foundation


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Modhapara, Raipur, Chhattisgarh- 492001. In this madrasa, around 166 Students get an Education. To Maintain this we have a total of 12 Staff-Principal -2, Teachers-5, Donation Promoters -2, Cook-1 Cleaner 1, Gate Keeper - 1

C. MADARASATUL MADINA FAIZAN E TAJULAULIYA - AT Near Madina Masjid Titordih, Durg Chhattisgarh- 491001. In this madrasa, around 55 Students get an Education. To Maintain this we have a total of 08 Staff-Principal -1, Teachers - 3, Donation Promoters -1, Cook-1 Cleaner 1, Gate Keeper - 1

2. Non-Residential Madrasa:- It's a type of madrasa where the local students get education for a duration of 2hrs in daily basis. Daily 3 shifts are carried out of 2hrs duration in which Quran, basics of Islam & good manners are being taught.

There are around 5 madrasas whose details are given below: -

1)--MASJID MAULA ALI-AL GOKUL NAGAR RAIPUR 492009, 51 Students, 1 Teachers And 3 Classes.

2)--MADARSA IMAMME AAZAM-A1 NEAR CHOTI MASJID AMAN LAKADI TAAL CAM 02 BHILAI POWER HOUSE 490001, 30 students, 1 Teacher, And 3 Classes

3)--MADARSA BABA FARID NIZAMI CHOWK FARID NAGAR, 30 students, 1 teacher, and 2 classes.

4)--MADARSA DATAAR at BIGH PARA KABIRDHAM 491995, 45 students, 1 teacher, and 3 classes.

5)--FAIZANE HAIDARE KARRAR - at HATH BAZAR GANJ CHOWK RAJNANDGAON 491441, 60 students, 1 teacher, and 3 classes.

3. Mentain of Masjid :- At present we are Maintaining and running of a masjid Faizan e Maula Ali, At- Gokul Nagar Raipur Chhattisgarh.

4. Yearly Congregation:-Once in a year we hold a congregation in a open space for all public in a large basis to convey the teaching of Islam and the activities carried out by our trust throughout the year. Apart from this monthly & quarterly congregation are also held as per need.

5. Different Type Short Courses

1 Namaz Course: In this course, how to offer Namaz is taught.

2 Hajj, Umrah In this course, people going for Hajj are taught how to perform the Arkans of Hajj in Mecca and Medina.

3 funeral activities: In this course, the method of shrouding the dead body as per Islamic law is taught.

6 Amongst others, various major courses being carried out by the Madarasas being operated by the assessee-trust are as follows:

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1. **Hifz course:** In this course, a student is made to memorise the whole Qur'an

2. **Aalim course:** In this course, a student is taught various language such as, Urdu, Arabic, Farsi, and Explanation of Qur'an & Hadees

3. **Islah Amal course:** In this course, a student is taught good habits and guided on how to quit bad habits."

Comment on above:

(i)--From above notes, the assessee has claimed to be engaged in running various charitable and educational activities like running 3 residential madarsa, 5 non-residential madarsas, maintaining masjid, organizing religious congregation and running various courses.

--On perusal of Audit Report for the year ending on 31.03.2024, it is found that in Income and Expenditure account there are only receipt of Rs.20,48,075/- as donation (General Donation of Rs.17,85,585/- and Anonymous Donation of Rs.2,62,490/-). However, there is no any expenditure on any of the religious/charitable activities as claimed by the assessee vide above stated activity notes. All the receipts have been transferred to the Balance Sheet as "Excess of Income over Expenditure".

--Hence, it is evident from above that the assessee has submitted false information in respect of its charitable or religious activities as well as Income & Expenditure during the Financial Year 2023-24.

--Further, it is also found that Unique Document Identification Number (UDIN) is not mentioned in the Audit Report submitted by the assessee. As per the decision of the Council of ICAI, UDIN has been made mandatory w.e.f. 01.07.2019. Hence, the Audit Reports submitted by the assessee is not as per the guidelines of ICAI and it seems that the Audit Report has been prepared without maintaining the requisite Books of Accounts.

--The assessee has submitted various bills and vouchers in support of expenses incurred on the claimed charitable/religious activities, however no such expenses have been included in the Income & Expenditure Account of the assessee.


(ii)--Vide S.No. 11 of this office letter dated, 11.09.2024, details in respect of educational institute was called as under:

"If educational institutions are running then produce copy of affiliation to run educational institution, number of students in each class, No. of RTE students, and list of teaching & non-teaching staff with PAN and complete Address".

--Though, the assessee has claimed to run Madarsas, no documents in support of registration/affiliation under Central or State Government Acts or Madrasa Board or with Waqf Boards etc. have been provided. Further, details in respect of teachers/staff have also been not provided by the assessee till date.

5-- Due to facts mentioned above and non-compliance of required documents/information, the application of the assessee in Form 10AB for grant of approval u/s 12AB of the Act is hereby rejected and the provisional registration u/s 12AB in Form 10AC granted by CPC are also hereby cancelled on ibid grounds.

For, Al Aqsa Foundation


Authorised Signatory

6. At the outset Ld. Authorized Representative (in short "Ld. AR) on behalf of the assessee submitted that the application of assessee in form 10AB for grant of registration u/s 12AB was not deposed off by the Ld CIT(E) in accordance with the facts on records and mandate of law, that he referred the activities of assessee for FY 2024-25 and verified the audited financials for of FY 2023-24. It was the submission that charitable activities were started by the assessee in FY 2024-25 only for which all the ledger copies and bills for expenses pertaining to FY 2024-25 were submitted before the Ld. CIT(E) but he did not even refer to those documents. Ld AR raised the grievance that the assessee was not even show caused before arriving at a conclusion against it, by the Ld. CIT(E) to rebut in its defense, the action of the authority was therefore, grossly in contravention to the principle of natural justice. Regarding mentioning UDIN in the Audited balance sheet, Ld AR shown us the issuance of UDIN No. 24429183BKAOCS4580 dated 28-09-2024 (page 351 of APB) for furnishing of Tax Audit Report of Form 10BB, however it is noticed that the same was left to be mentioned on the audited balance sheet, but the same could have been brought to the notice of Ld. CIT(E), if the assessee would have been called for such clarification. Under such circumstances, it was prayer that the order passed by Ld. CIT(E) shall be set aside and be directed to grant the registration u/s 12AB of the Act.

7. Per contra, Ld. CITDR representing the revenue vehemently placed his reliance on the order of Ld. CIT(E).

8. Having given a thoughtful consideration to the facts of present case, after hearing both the parties, we find substance in the submission of the assessee that before deciding fate of the application of assessee for grant of registration u/s 12AB, if the Ld. CIT(E) was not convinced with the submissions made, the assessee should have been show caused, so as to make its submission in rebuttal in order to follow the principle of natural justice. Further, the expenditure not incurred by the assessee in FY 2023-24 was a fact not disputed by the assessee, as Ld AR stated that the activities are started in April 2024, therefore examining the activities started in FY 2024-25 with financials of FY 2023-24 shows misappreciation of facts on the part of Ld. CIT(E) in his order (extracted supra). In view of such facts and circumstances, we are of the considered view that the applications of the assessee are dismissed under misconceived analysis of the facts by the Ld. CIT(E), much less without giving the opportunity to the assessee to rebut towards such adverse findings, this goes against the principle of natural justice. Consequently, the matter needs revisit by the Ld. CIT(E) with reasonable opportunity to the assessee.

9. Resultantly, the order of Ld. CIT(E) dated 27.12.2024 is set aside, with the direction to decide *denovo*, the impugned application of assessee in form 10AB for grant of registration u/s 12AB.

10. In result the appeal of the assessee in **ITA 60/RPR/2025** is **allowed for statistical purposes**, in terms of our aforesaid observations.

11. Following our aforesaid decision in **ITA 60/RPR/2025** in the case of **Al Aqsa Foundation**, having similar facts, circumstances, impugned order and grievance in **ITA 79/RPR/2025** by the assessee namely **Al Hasan Foundation**, the matter stands on same parity, therefore has been decided with identical decision, consequently, rendered as **allowed for statistical purposes**.

12. In combined result both the captioned appeals of the respective assessee's are **allowed for statistical purposes**, in terms of our aforesaid observations.

Order pronounced in the open court on 31/07/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 31/07/2025
*HKS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Al Aqsa Foundation & Al Hasan Foundation
2. प्रत्यर्थी/ The Respondent- CIT(E), Bhopal,
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

//True copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur