

**IN THE INCOME-TAX APPELLATE TRIBUNAL "C" BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.1164/MUM/2025
(A.Y. 2025-26)**

**ITA No.1165/MUM/2025
(A.Y. 2025-26)**

Odhavji Chanabhai Peraj Charity Trust, 47th Floor – 5, Plot-51, Kapadia Chambers, Devji Ratansi Marg, Chinch Bunder, Mumbai – 400 009, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Circle – 25(3)(1), Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai – 400051, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AABTO1040R		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri K. Gopal & Ms. Neha Paranjpe, ARs
Respondent by :	Shri R. A. Dhyani (CIT DR)

Date of Hearing	02.07.2025
Date of Pronouncement	28.07.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The above captioned appeals have been filed by the assessee Trust against the orders passed by the Learned Commissioner of Income-tax (Exemptions), Mumbai [hereinafter referred to as "CIT(E)"] u/s. 12AB and 80G respectively of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment Years [A.Y.] 2025-26. Since issues involved are interlinked and also the fact that appeals were heard together, they are



being taken up together for adjudication vide this composite order for the sake of brevity. **We take up first the appeal in ITA No.1165/Mum/2025 relating to the rejection of application for registration u/s 12AB of the Act.**

2. The grounds of appeals are as under:-

ITA No.1165/MUM/2025 (A.Y. 2025-26)

1. *Under the facts and in law, the learned CIT(E) - Income Tax Department (hereinafter referred to as 'CIT(E)'), erred in passing an order u/s 12AB by rejecting the application of registration made by filing Form 10AB.*
 - 1.1 *Under the facts and in law, the learned CIT(E) erred in questioning the objects of the trust and genuineness of activities of the trust solely on the basis of misinterpreting certain clauses mentioned in the Trust Deed which intends that the appellant can apply funds outside India.*
 - 1.2 *Under the facts and in circumstances, the Learned CIT(E) failed to consider the fact that the appellant has mentioned in the trust deed vide page No. 3 that the areas of operation of the trust would be within the boundaries of India.*
 - 1.3 *Under the facts and in law, the learned CIT(E) has erred in rejecting the application for registration of Trust on the presumption that the funds may be utilized outside India due to the general objects mentioned in the Trust Deed. This presumption is misplaced as it is contrary to the established legal principle that decisions must be based on actual conduct and not on conjectures or surmises.*
 - 1.4 *Under the facts and in law, the learned CIT(E) has failed to consider the fact that the appellant has not till date incurred any expenditure outside India in attainment of its Objects. The Learned CIT(E)'s decision is based on hypothetical assumptions without any evidence to support the allegation of potential utilization of funds outside India. Such decision is premature and speculative.*
 - 1.5 *Under the facts and in law, the learned CIT(E) has failed to consider the facts that the inclusion of general clauses in the trust deed does not ipso facto imply that the funds will be utilized outside India. These clauses merely provide flexibility for lawful and legitimate charitable purposes in the future.*
 - 1.6 *Under the facts and in law, the learned CIT (E) failed to consider the fact that the appellant's primary focus remains on activities within India such as assisting Indian Students study abroad, promoting*



Indian products. The clauses referring to activities abroad are ancillary and do not form part of the trust's objectives. Learned CIT (E) failed to appreciate this distinction.

1.7 Under the facts and in law, the learned CIT(E) erred in invoking the provisions of section 11 to reject the application for registration u/s 12AB, despite section 11 primarily governing the exemption of the Income derived from property held under Trust.

1.8 Under the facts and in law and without prejudice to the above, the learned CIT(E) failed to consider the provisions of section 11 (1)(c) of the Act, which states that the provisions are attracted only if actual expenditure is incurred outside India.

1.9 Under the facts and in law, the learned CIT(E) failed in considering the fact that the provisions of section 11 (1)(c) cannot be invoked only on the ground that the trust deed provides for activities outside India.

1.10 In the case of M.K. Nambyar Saarf Law Charitable Trust v. Union of India [2004] 140 Taxman 616 (Delhi), it was held that Registration cannot be denied to charitable or religious trust merely because income is applied outside India. And if Income is so applied, then section 11(1)(c) will be applicable and if the permission granted by general or special order, then the benefit u/s 11 can be extended.

2. Under the facts and in law, the learned CIT(E) failed to provide reasonable opportunity to the appellant to justify about the object of the appellant and genuineness of the activities of the appellant.

3. The assessee Trust('Applicant') filed an application in Form 10AB u/s 12A(1)(ac)(iii) seeking registration under section 12AB of the Act. According to the order passed by the Id.CIT(E), the relevant procedural mandate is governed by the provisions of Rule 17A of the IT Rules, which is titled "Application for registration of charitable or religious trusts, etc." The sub rule (2) of Rule 17A mandates that the application in Form 10AB is to be accompanied by certain specific documents mentioned in Rule 11AA(2), it was noted by him from various clauses of the trust deed/MOA, being the objects of trust deed/MOA,



the applicant intended to apply fund outside India. He observed that these objects were in violation of section 11 of the Act. In response to the query made in this regard, the applicant stated as under:

“Trust deed dated 24.05.2023 which contains various clauses from 1 to 27 & total pages are 40. Trust deed has stated before providing the main objects and incidental objects as Boundaries, Limits and area of Operation which is reproduced herewith.

Clause No 3 on page no 6 of 40 of Trust deed dated 24.5 2023 which is reproduced herewith:

“Area of Operation State that The Trust Shall Operate within the Boundaries of India”

So the settlor and Trustees have already agreed and decided that trust operation will be WITHIN BOUNDERIES OF INDIA. Hence It clearly says and means that

- *All activities or benefits will be within India,*
- *End user or beneficiaries will be within India,*
- *Any help or benefits will be for persons or human being staying in India*
- *Any medical camp help, any education help to students/education institute or Relief of poverty for persons or institute having presence in India only will be provided.*

So the Trustees cannot violate the basics principles of thrust stated in beginning of Trust deed that TRUST FUND CAN NOT BE TO UTILISED OUTSIDE INDIA.

Further again before stating the various objects stated vide clause no 7(1)(1) &(2) AND 7(11)(A) TO(G) of said trust deed, the settlor and trustees have desired and agreed and confined in clause No 7 and page no 6 of trust deed that is reproduced hereinafter:



“The Trustees shall execute the Aims and Objects throughout the State of India Only.”

So again trust deed clearly lays down the rules and conditions that Aim and objects to be confined to India only and not outside India.

However various clauses/sentences/connotation stated in subsidiary clauses no 7(II)(A) (viii) 7(11)(A) (xxix), 7(II) (A) (xxxi) 7(II)(A) (xxxiv) 7(11)(B) (xvii), 7(II) (B) (xviii), 7(II)(F)(x1) and 7(II)(F)(xxv) states and interpret that wherever any advanced technology or know how or research work of any institute or person outside India are having will the taken help of or may take some notes from them so it does describe or state that benefits or end use of beneficiaries should be available to persons staying outside India as it is already restricted in the beginning of Trust deed that its operation and aims will be carried out in India only. So the trust will do activity or carry main objects which is restricted to INDIA only.”

3.1. The Id.CIT(E) found the reply neither satisfactory nor conclusive. The applicant stated that trust operation will be within boundaries of India. However, the words in the object, like *“giving travelling fellowships in any branch of Science or art or learning assisting students to study abroad either by payment of a lumpsum or by payment of periodical sums or “Trust shall establish, maintain and control institutions in India and elsewhere for the above object....” Or “To conduct and/or arrange foreign tours of the deserving candidates “clearly conveyed that it intended to utilise the funds outside India. Such objects left room for any potential future endeavour may be undertaken*



by the assessee trust which would require expenditure outside India. According to him, the applicant trust ought to have amended the clauses of the objects mentioned above which are in violation of the Act as discussed above, however, the applicant has not considered it. The assessee had not presented/submitted any documentary evidence/proof of passing the resolution regarding amendment in trust deed nor has it provided any proof that it has initiated the process for amendment in trust deed/MOA before the competent authority. It is further stated that Registration under section 12AB is to be granted in terms of the provisions of section 12AB(1)(b) of the Act after being satisfied about the objects of the trust or institution, the genuineness of activities, and the compliance of any other law for the time being in force as are material for the purposes of achieving its objects. He, therefore, concluded that the applicant was not fulfilling the stipulated conditions prescribed for approval of application filed in Form 10AB. As such, the application seeking registration under section 12AB of the Act was rejected by him.

4. Before us, the Id.CIT(DR) has supported the order of the Exemption authority. He also placed reliance on the decision of the coordinate bench, Mumbai in the case of Sila For Change Foundation in ITA No.4274 & 4275/MUM/2024 wherein on identical facts, appeal against rejection of registration application u/s 12AB was dismissed.



5. Per contra, the ld.AR has drawn attention to the objects of the Trust which clearly shows that all its activities are confined to the boundary of the country only and has no intention or object to do any activity outside India. He further relied on the decision of coordinate bench of ITAT, Mumbai in the case of **Dedhia Music Foundation(2025) 173 Taxmann.com 394(Mum-ITAT)** stating that facts of the instant case are identical wherein *it was held that the CIT could not deny registration under section 12AB of the Act on the ground that there was existence of any object clause for carrying out any activity outside India. However, such kind of application of income outside India, unless permitted by CBDT will not be exempted under section 11 of the Act.*

6. We have carefully perused the record, gone through various clauses of the Trust deed. The ld.CIT has categorically stated that certain words in the deed like “giving travelling fellowships in any branch of Science or art or learning assisting students to study abroad either by payment of a lumpsum or by payment of periodical sums or “Trust shall establish, maintain and control institutions in India and elsewhere for the above object....” or “To conduct and/or arrange foreign tours of the deserving candidates clearly conveys that the assessee intends to utilise the funds outside India. Such objects leave room for



any potential future endeavour may be undertaken by the assessee Trust which would require expenditure outside India. It appears that he had objections to this clause only on which he inferred that the applicant had left open option for its activity and operation outside India in future endeavours although we find that the applicant has categorically stated in the deed that all its activities as also the beneficiaries would be confined to the boundaries of the country only. Relevant parts provide that *“Trust deed dated 24.05.2023 which contains various clauses from 1 to 27 & total pages are 40. Trust deed has stated before providing the main objects and incidental objects as Boundaries, Limits and area of Operation which is reproduced herewith.*

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6.1 Having gone through the contents of the order of the coordinate bench in **Dedhia Music Foundation (supra)**, we find that in the impugned order as well the Id.CIT(E) rejected the application for registration u/s 12AB on similar object clause in existence in the



application. Relevant parts of the order are extracted as under for the sake of clarity and brevity:

“11. As is evident from the above, the section lists various activities which qualify as charitable purpose but there is no restriction to the scope of such activities within the geographical boundary of India. It is only section 11, as reproduced above, which places a geographical restriction allowing exemption only to incomes applied to charitable purposes in India. But even the said section does not completely rule out exemption to incomes applied outside India for charitable purposes, granting exemption to certain such applications, as mentioned in section 11(1)(c), subject to being approved by the Board.

12. As is evident from the above, in the scheme of the Act, incomes applied outside India for charitable purposes are not completely and categorically ruled out from being eligible for grant exemption.

13. The Ld. Pr. CIT's order ,in the present case, therefore denying registration to the applicant assessee merely for the reason that its objects included application of income outside India, we hold, is not in accordance with law. More particularly when, admittedly, this was not the sole and main object of the applicant assessee, but only its ancillary and incidental object. It is not the case therefore that there is to be no application of income within India at all as per the objects. In fact the main object of the applicant assessee involves carrying out charitable activities in India. In this factual situation, denying registration u/s 12AA of the Act, for the reason that its incidental object entailed application of income outside India, we find, would result in the assessee being denied exemption to income applied in India, which it would otherwise be entitled to under law.

14. Further as rightly pointed out by the Ld. Counsel for the assessee, the provisions of [section 11\(1\)\(c\)](#) of the Act, which the Ld.CIT(E) has relied upon for holding that only activities carried out in India will qualify as charitable for grant of registration, is only for the purpose of determining the income which qualifies for exemption u/s 11 of the Act. The said section comes into operation only once registration is granted u/s 12A of the Act and therefore cannot be relevant for the purposes of granting registration u/s 12A of the Act. The scheme of the Act is that all entities carrying out charitable activities, as defined in [section 2\(15\)](#) of the Act, qualify to be registered as charitable entities subject to satisfaction of the concerned officer vis-a-vis their objects and activities, but the exemption is provided/restricted only to the extent of income which is applied for charitable purpose in India.

15. The issue we find, is squarely covered in favour of the assessee by the decisions relied upon by the Ld. Counsel for the assessee before us. In the case of **MK Nambyar SAARC Law Charitable Trust (supra)**, we find, the application for grant of registration was rejected on the ground that the applicant itself had admitted that the scholarship could be paid to members even outside India. The Hon'ble High Court held that the application of income outside India is not a relevant criteria for rejecting the application for grant of registration u/s 12AA of the Act and the officer has to only restrict himself to the satisfaction about the objects and genuineness of the activities of the trust while granting registration with no restriction on the activities being carried out inside or outside India. The relevant findings of the Hon'ble High Court is as under:



The judgment of the court was delivered by B.C. Patel C.J. - M.K. Nambyar SAARC Law Charitable Trust has filed this petition against the order made by the Director of Income-tax (Exemptions) New Delhi, on February 24, 2004. The aforesaid trust submitted two applications in Form No. 10A for registration under [section 12A](#) and recognition under [section 80G](#) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). The application was rejected on the ground that the applicant itself has admitted that the scholarships can be paid to the members even outside India. It is in view of this admission that the activities will be extended outside India as per the objects laid down, it was held that the registration cannot be granted under [section 12A](#) of the Act and the approval of exemption under [section 80G](#) also cannot be granted. [Section 11](#) of the Act refers to income from property held for charitable or religious purposes. The relevant provisions are reproduced hereunder:

"11. (1) Subject to the provisions of [sections 60 to 63](#), the following income shall not be included in the total income of the previous year of the person in receipt of the income-

(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent, of the income from such property; . . .

(b)*****

(c) income derived from property held under trust-- (i)created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and (ii)for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India ;

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(d)*****

3. So far as the benefit of [section 11\(1\)\(a\)](#) is concerned, it can be extended only to the extent to which such income is applied to such purposes in India. However, if the income is applied to the purposes outside India, then clause (c) will be applicable and if the permission is granted by the Board either by general or special order then, benefit can be extended. [Section 12AA](#) prescribes the procedure for registration. Reading the section, it becomes clear that after the application is made, the officer has to call for documents or information from the Trust to satisfy himself about the genuineness of the activities of the Trust. He can make further enquiry as he may deem necessary. It is only after satisfying himself about the objects of the Trust and the genuineness of its activities that he has to pass an order in writing registering the Trust or institution. And if he is not satisfied, he can reject the same. This section does not refer to the activities in India or outside India. It refers to application of income for charitable or religious purposes in India as also with direction or order of the Board for application of income as aforesaid outside India. Reading the order dated 24-2-2004, it is very clear that there is non-application of mind. It was necessary for the Commissioner to examine the purpose for satisfying himself that the activities are genuine. It was open for him to make necessary enquiries in this behalf and to pass an order as per the procedure laid down under [section 12AA](#) of the said Act. So far as income which is applied outside India is concerned, is not a relevant criteria for rejecting the application. In absence of order under [section 11\(1\)\(a\)](#)(c),



one cannot seek benefit for application of income for charitable or religious purposes, outside India. Therefore, the order dated 24-2-2004 made by the Director of Income-tax (Exemptions), Annexed at page 32 which is based on irrelevant criteria is quashed and set aside with a direction to consider the application strictly in accordance with law. It is made that even application under [section 80G](#) is required to be considered afresh. It is directed that the application shall be disposed of within a period of four weeks by the Commissioner.

16. The aforesaid decision of the Hon'ble Delhi High Court has been followed by the Coordinate Benches of the Tribunal in the case of **National Informatics Centre Services Inc. (supra)** ([2017] 88 taxmann.com 878 (Delhi))

17. In view of the above, the order passed by the Ld. CIT(E) denying registration [u/s 12A](#) of the Act is set aside and the Ld.CIT(E) is directed to grant registration as applied for by the assessee.

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

6. We may examine whether the ratio of above said decision would also apply to the applications processed by Ld CIT(E) under new provisions of [sec.12AB](#) of the Act. Under the provisions of [sec.11](#) to [13](#) of the Act, which are applicable to charitable trusts or institution, two authorities are involved, viz.,

(a) the Ld PCIT or CIT is empowered to grant or cancel registration [u/s 12A, 12AA](#) or [12AB](#) as the case may be.

(b) the assessing officer is the authority who assesses the total income of the charitable trust or institution for every assessment year.

7. We shall examine the provisions of [sec.12AB](#) of the Act. The authority to grant registration [u/s 12AB](#) is the Ld PCIT or CIT. Under [sec, 12AB](#) of the Act, the three steps have been prescribed for the process of registration or cancellation of charitable trusts or institution.

(a) For new charitable trusts or institutions, provisional registration is granted [u/s 12AB\(1\)\(c\)](#) of the Act for a period of 3 years from the assessment year for which the registration is sought.

(b) Permanent registration shall be granted [u/s 12AB\(1\)\(a\)/12AB\(1\)\(b\)](#) of the Act for a period of five years, when the charitable trusts or institutions apply for the same.

(c) Where a provisional registration or permanent registration is granted [u/s12AB\(1\)](#) of the Act, the Ld PCIT/CIT is empowered [u/s 12AB\(4\)](#) of the Act to cancel the registration in accordance with that provisions.

8. As noticed earlier, the assessing officer is the authority who is empowered to determine the income of a charitable trust or institution and granting of exemption [u/s 11](#) of the Act. As per [sec.11\(1\)](#), exemption [u/s 11](#) is restricted "to the extent to which such income is applied to charitable purposes in India". Thus the recognition of geographical jurisdiction wherein the income was applied needs to be recognised or examined while computing total income of the charitable trust or institution. We also noticed that the income applied for non- charitable purposes or applied outside India will not be exempt [u/s 11](#) of the Act, i.e., such income shall be taxable in India.



9. We shall compare the provisions of [sec.12AA](#) and [sec. 12AB](#) of the Act which prescribe the conditions for granting registration.

(A) SECTION 12AA:-

"12AA. [Procedure for registration.] (1) The Principal Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) or clause (aa) or clause (ab) of sub-section (1) of [section 12A](#), shall--

(a)[call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about,--

(i)the genuineness of activities of the trust or institution; and

(ii)the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects, and may also make such inquiries as he may deem necessary in this behalf; and]

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities as required under sub-clause (i) of clause (a) and compliance of the requirements under sub-clause (ii) of the said clause], he--

(i)shall pass an order in writing registering the trust or institution;

(ii)shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution, and a copy of such order shall be sent to the applicant."

(B) SECTION12AB 12AB. [Procedure for fresh registration.] [Ins. by the Act No. 38 of 2020, w.e.f. 1- 4-2021.] (1)The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of [section 12A](#), shall,--

(a)where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(b)where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,--

(i)call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about--

(A)the genuineness of activities of the trust or institution; and (B)the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(ii)after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),-

(A) pass an order in writing registering the trust or institution for a period of five years; or (B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard;



(c) where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.

9.1. We notice that the provisions of [sec.12AA\(3\)](#) and [12AA\(4\)](#) of the Act describes the power of Ld CIT(E) to cancel the registration. Similarly, the provisions of [sec.12AB\(4\)](#) empowers the Ld CIT(E) to cancel the registration already granted either provisionally or permanently. It can be noticed that the provisions relating to cancellation of registration granted under [sec.12AA](#) and [sec.12AB](#) are identically worded under the respective provisions. Hence, in our view, the ratio of the decision rendered in the context of [sec.12AA](#) can be conveniently applied to the applications processed by Ld CIT(E) u/s 12AB of the Act.

10. However, it is noticed that the provisions of [sec.12AB\(4\)](#) is elaborate vis-a-vis [sec.12AA\(3\)](#) & (4). Even though, in the instant case, the Ld CIT(E) has not specifically invoked the provisions of [sec.12AB\(4\)](#) of the Act, we may examine the applicability of the said provision to the facts of the present case. The provisions of [sec.12AB\(4\)](#) reads as under:-

"(4) Where registration or provisional registration of a trust or an institution has been granted under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (b) of sub-section (1) of [section 12AA](#), as the case may be, and subsequently,--

(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or

(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of [section 143](#) for any previous year; or

(c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall--

(i) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

(iii) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

(iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such trust or institution.

Explanation.--For the purposes of this sub-section, the following shall mean "specified violation",--

(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

(b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust



or institution in respect of the business which is incidental to the attainment of its objectives;
or

(c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not ensure for the benefit of the public; or

(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(e) any activity being carried out by the trust or institution--

(i) is not genuine; or

(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality."

11. It can be noticed from the provisions of [sec.12AB\(4\)](#) of the Act, the registration already granted either provisionally or permanently may be cancelled by Ld CIT(E), if he is satisfied that one or more specified violations have taken place. If he is not satisfied so, he may refuse to cancel the registration granted [u/s 12AB](#) of the Act. The expression „specified violation“ is defined in the Explanation. It can be noticed that the said definition is not an "inclusive definition", since it starts the expression "For the purposes of this sub-section, the following shall mean "specified violation"". Hence, it is an exhaustive definition. Consequently, if there is any violation other than those stated in the Explanation, then the Ld CIT(E) shall not get power to cancel the registration.

12. In the present case, according to Ld CIT(E), the objects clause enables the assessee to apply its income outside India. According to Ld CIT(E), the same is not permitted under the Act and hence the registration provisionally granted to the assessee may be cancelled. We shall now examine as to whether the existence of objects for carrying out activities outside India or actual application of income outside India in accordance with its objects, would fall under any of the categories of "specified violations" listed out in the Explanation to [sec. 12AB\(4\)](#) of the Act or not.

(i) Clause (a) would be attracted only if any income derived from the property held for charitable purpose is applied other than for the objects of the charitable trust or institution. Hence, so long as any income is applied for the objects of the charitable trust or institution, the clause (a) would not get attracted. Thus, if the objects clause of a charitable Trust or Institution permits carrying on objects outside India and if any income is applied for such objects, then it cannot be considered as application of income "for objects other than the objects of the charitable trust or institution" falling within the meaning of clause (a). Consequently, the clause (a) would not be attracted.



(ii) Clause (b) would be attracted only if any business or profession is carried on and there is violation as mentioned therein. This clause will not be attracted for application of income for permitted objects outside India.

(iii) Clause (c) would be attracted when income of trust held for private religious purposes is applied for those purposes, which does not ensure for the benefit of public. The assessee herein is not a trust held for private religious purposes and hence this clause will not apply to the assessee herein.

(iv) Clause (d) would be attracted when income of the trust is applied for particular religious community or caste. This clause will also not apply to the assessee herein.

(v) Clause (e) would be attracted when any activity being carried out by the trust or institution-

(i) is not genuine; or

(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered. This clause would be attracted when the activities of the charitable trust or institution is not genuine or in violation of any of the conditions subject to which the registration u/s 12AB was granted. In the instant case, the Ld CIT(E) has stated the activities claimed to have been carried on is not supported by the expenses incurred. According to Ld A.R, the above said observations are against the facts available on record. Hence the above said observations of Ld CIT(E) is dealt with separately infra.

(vi) Clause (f) would be attracted when there is failure to comply with the requirements of "any other law". Under this clause "any other law" would mean any law other than Income tax Act. This meaning can be understood from the Sub-clause (B) of clause (i) of [sec.12AB\(1\)\(b\)](#) of the Act, which reads as under:-

"(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects".

The Ld CIT(E) has to ensure that the charitable trust or institution has complied with the requirement of „any other law for the time being in force“, as are material for the purpose of achieving its objects. Here, it is pertinent to note that the verification by Ld CIT(E) should be restricted to compliance of those laws as are material for the purpose of achieving its objects.

12.1. It may be noticed that clauses (a),(c),(d) and (e) would be attracted only when there is application of income as mentioned in those clauses. Hence "actual application of income" is the condition to be satisfied for attracting the above said four clauses.

13. In our view, the provisions of [sec.11\(1\)](#) would not fall under the category of "any other law", since it is only a computation provision. The provisions of [sec.11\(1\)](#) do not require the charitable trust or institution to comply with any requirements, which are essential to achieve the objects of the trust. Further provisions of [sec.11\(1\)](#) do not state that the application of income derived from property held under trust for activities carried outside India results in violation of any law. [Sec.11](#) only states that the exemption under that section is restricted to income applied for charitable purposes in India, i.e., it does not permit exemption of income applied outside India. Hence income, if any, applied for objects outside India cannot be construed to be violation of 'any other law' falling within the meaning of clause (f) of Explanation to [sec.12AB\(4\)](#) of the Act.



14. The foregoing discussions would show that the application of income of a charitable trust or institution outside India for carrying out its objects will not fall under any of the categories of "specified violation" as mentioned in the Explanation to [sec.12AB\(4\)](#) of the Act. Hence, the decision rendered by Hon^{ble} Delhi High Court in the case of [M.K. Nambyar Saarf Law Charitable Trust](#) (supra) will apply to the provisions of [sec.12AB](#) of the Act also, since the provisions of [sec.12AB](#) also do not refer to the activities carried in India or outside India.

15. In view of the foregoing discussions, it can be concluded that existence of any object for carrying out any activity outside India will not enable the Ld CIT(E) to deny registration [u/s 12AB](#) of the Act. As observed earlier, such kind of application of income outside India (unless it is permitted by the CBDT) will not be exempted [u/s 11](#) of the Act.

16. Hence, the first reasoning given by Ld CIT(E) is liable to be quashed. On merits of the case, we are unable to agree with the interpretation given by the Ld CIT(E) to the objects clause of the assessee, which reads as under:-

"Promote Indian heritage art such as Indian Classical music, Organize regular concerts and performances by renowned and emerging Indian classical musicians, Establish or support training school or institute to teach Indian classical music to students of all ages and skill levels, to Indian classical musicians to cover the costs of performance, travel, and recording, Organize festivals and conferences that bring together Indian classical musicians and scholars from around the world."

A careful perusal of the above cited object clause talks about the organizing festivals and conferences that bring together Indian Classical musicians and scholars from around the world, i.e., it talks about mobilizing the Indian classical musicians and scholars, wherever they are located. It nowhere states that the income of the charitable trust or institution shall be applied outside India. Even if it is applied outside India, then the assessee, subject to [sec. 11\(c\)](#) of the Act, would not get exemption of the income so applied [u/s 11](#) of the Act. Hence the Ld CIT(E) was not justified in rejecting the application of the on apprehension entertained by him.

17. The second reasoning given by the assessee is that the expenses incurred by the assessee do not prove the activities carried on by it. In this regard, the Ld A.R submitted that the assessee has filed required documents before Ld CIT(E). He further submitted that the assessee has also furnished additional evidences relating to the activities carried on by the assessee. Accordingly, he prayed that these additional evidences may be admitted and the assessee may be provided with an opportunity to present all the details before Ld CIT(E) to prove the activities carried on by it.

17.1. We find merit in the prayer of the assessee. We notice that the observations made by Ld CIT(E) with regard to activities is general in nature, i.e., the Ld CIT(E) did not state the deficiencies noticed by him in the documents furnished by the assessee. Further, the assessee has furnished additional evidences in order to satisfy Ld CIT(E) with regard to the genuineness of activities. Accordingly, in the interest of natural justice, we admit the additional evidences furnished by the assessee.

18. Accordingly, we set aside the impugned order passed by Ld CIT(E) rejecting the application filed by the assessee seeking permanent registration [u/s 12AB](#) of the Act and restore all the issues to his file with the direction to process the application of the assessee again afresh in the light of discussions made supra.



19. We shall not adjudicate the appeal filed by the assessee challenging the order passed by Ld CIT(E) rejecting the application filed by the assessee seeking recognition u/s 80G of the Act.

20. We notice that the Ld CIT(E) has rejected the application on the reasoning that the he has denied registration to the assessee u/s 12AB of the Act. In the preceding paragraphs, we have cancelled the order passed by Ld CIT(E) and restored all the issues relating to the registration sought by the assessee u/s 12AB of the Act. Following the said order passed by us in the preceding paragraphs, we set aside the order passed by Ld CIT(E) rejecting the recognition u/s 80G of the Act and restore all the issues to his for examining the application afresh in the light of discussions made supra.

21. Needless to mention, the assessee should be provided with proper opportunity of being heard.

22. In the result, both the appeals of the assessee are treated as allowed.”

8. We find that the above decision is squarely applicable to the facts of the case as here also the ld.CIT(E) has rejected the application for registration solely on account of intended activity outside the country. He failed to take note of the various clauses of the deed the applicant has repeatedly in several parts therein has categorically repeated its entire activity as also the beneficiaries situated within the boundaries of the country only.

8.1 In so far as the reliance placed by the ld.DR on the coordinate bench in Sila for Change Foundation(supra) is concerned, we find that the decision is distinguishable in the sense that as per the Trust deed *one of the object clauses categorically stated “To provide support and other such developmental services to other organisations in India and outside India in the social sector”* which clearly showed its intentions to carry on activities outside the



country which is not the case here. Moreover, the applicant therein was amenable to modifying the Trust deed on the issue of activities outside the country for which the tribunal accorded liberty in this regard.

8.2 Respectfully following the above decision, we set aside the order passed by the Id.CIT(E) and direct him to allow registration to the applicant Trust. As a result, the grounds raised by the assessee are allowed.

9.ITA No.1164/MUM/2025 (A.Y. 2025-26)

1. *Under the facts and in law, the learned CIT(E) - Income Tax Department (hereinafter referred to as 'CIT(E)'), erred in denying the recognition of the trust under section 80G on the grounds of rejecting the application for registration u/s 12AB, as per the order issued u/s 12AB dated 23.12.2024.*
 - 1.1 *Under the facts and in law, the learned CIT(E) erred in questioning the objects of the trust and genuineness of activities of the trust solely on the basis of misinterpreting certain clauses mentioned in the Trust Deed which intends that the appellant can apply funds outside India.*
 - 1.2 *Under the facts and in law, the learned CIT(E) has erred in rejecting the application for registration of Trust on the presumption that the funds may be utilized outside India due to the general objects mentioned in the Trust Deed. This presumption is misplaced as it is contrary to the established legal principle that decisions must be based on actual conduct and not on conjectures or surmises.*
 - 1.3 *Under the facts and in law, the learned CIT(E) has failed to consider the fact that the appellant has not till date incurred any expenditure outside India in attainment of its Objects. The Learned CIT(E) 's decision is based on hypothetical assumptions without any evidence to support the allegation of potential utilization of funds outside India. Such decision is premature and speculative.*



- 1.4 Under the facts and in law, the learned CIT(E) has failed to consider the facts that the inclusion of general clauses in the trust deed does not ipso facto imply that the funds will be utilized outside India. These clauses merely provide flexibility for lawful and legitimate charitable purposes in the future.
- 1.5 Under the facts and in law, the learned CTT (B) failed to consider the fact that the appellant's primary focus remains on activities within India such as assisting Indian Students study abroad, promoting Indian products. The clauses referring to activities abroad are ancillary and do not form part of the trust's objectives. Learned CIT (E) failed to appreciate this distinction.
- 1.6 Under the facts and in law, the learned CIT(E) erred in invoking the provisions of section 11 to reject the application for registration u/s 12AB, despite section 11 primarily governing the exemption of the Income derived from property held under Trust.
- 1.7 Under the facts and in law and without prejudice to the above, the learned CIT(E) failed to consider the provisions of section 11 (1)(c) of the Act, which states that the provisions are attracted only if actual expenditure is incurred outside India.
- 1.8 Under the facts and in law, the learned CIT(E) failed in considering the fact that the provisions of section 11 (1)(c) cannot be invoked only on the ground that the trust deed provides for activities outside India.
- 1.9 In the case of *M.K. Nambyar Saarf Law Charitable Trust v. Union of India* [2004] 140 Taxman 616 (Delhi), it was held that Registration cannot be denied to charitable or religious trust merely because income is applied outside India. And if Income is so applied, then section 11(1)(c) will be applicable and if the permission granted by general or special order, then the benefit u/s 11 can be extended.
2. Under the facts and in law, the learned CIT(E) failed to provide reasonable opportunity to the appellant to justify about the object of the appellant and genuineness of the activities of the appellant.
3. All the aforesaid grounds are without prejudice to each other, independent and in the alternative.

10. As we have already set aside the order u/s 12AB of the Act and directed the CIT to allow the registration, consequently, the rejection of the application u/s 80G is also set aside with a direction to the CIT to



allow the same. As a result, the grounds raised by the assessee are allowed.

11. In the result, **both appeals by the assessee are allowed.**

Order pronounced in the open court on 28.07.2025.

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 28.07.2025

Lubhna Shaikh / Steno

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

