

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.487/SRT/2025

(Hybrid hearing)

Bai Pirojbai Manekji Patel Singaporewalla English School for Girls, Gr. Floor, Parsi Panchayat Office, Shahpore, Surat-395 003	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No.609, Floor-6, Aayakar Bhavan, Vejalpur, Nr. Sachin Tower, 100 Foot Road, Ahmedabad-380 015 -394 601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAATL 1130 C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.488/SRT/2025

The Sorabji Burjorji Dastur Darab Paahalana Trust Fund, Ground Floor, Parsi Panchayat Office, Shahpore, Surat-395 003	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No.609, Floor-6, Aayakar Bhavan, Vejalpur, Nr. Sachin Tower, 100 Foot Road, Ahmedabad-380 015 -394 601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAATT 2648 B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.489/SRT/2025

First Dastur Maherji Rana Trust Fund Ground Floor, Parsi Panchayat Office, Shahpore, Surat-395 003	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No.609, Floor-6, Aayakar Bhavan, Vejalpur, Nr. Sachin Tower, 100 Foot Road, Ahmedabad-380 015 -394 601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAATT 2651 A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.490/SRT/2025

The Sorabjee Nusserwanjee Paruck Parsi Polytechnic Institute, Ground Floor, Parsi Panchayat Office, Shahpore, Surat-395 003	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No.609, Floor-6, Aayakar Bhavan, Vejalpur, Nr. Sachin Tower, 100 Foot Road, Ahmedabad-380 015 -394 601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AABTS 2584 A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी /Respondent)

आयकर अपील सं./ITA Nos.491/SRT/2025

The Dastur Darab Pahalana Trust Funds, Ground Floor, Parsi Panchayat Office, Shahpore, Surat-395 003	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No.609, Floor-6, Aayakar Bhavan, Vejalpur, Nr. Sachin Tower, 100 Foot Road, Ahmedabad-380 015 -394 601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAATT 2657 G		
(अपीलार्थी/Appellant)		(प्रत्यर्थी /Respondent)

निर्धारिती की ओर से /Appellant by	Shri Akshay M. Modi, CA
राजस्व की ओर से /Respondent by	Shri Ashish Pophare, CIT-DR
सुनवाई की तारीख/Date of Hearing	03/07/2025
उद्घोषणा की तारीख/Date of Pronouncement	23/07/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

These five appeals by separate assessee-trusts emanate from the separate orders passed by the Ld. Commissioner of Income-tax (Exemptions), Ahmedabad [in short, 'Ld.CIT(E)'] rejecting the application filed in Form-10AB for approval under clause (iii) of sub section(5) of Section 80G of the Income-tax Act, 1961 (in short, 'the Act') dated 26.12.2024 and 28.12.2024. Since facts

are similar and all the Trust(s) are working in the same premises under the banner “Parsi Panchayat” and the grounds of appeals raised by the parties are also identical with the consent of both parties, the appeals were heard together and a common order is passed for the sake of convenience and brevity.

2. The assessee-trusts while challenging the rejection of applications for approval u/s 80G(5)(iii) of the Act have raised following grounds of appeal are as under:

ITA No.487/SRT/2025

“(1) On the facts and in the circumstances of the case as well as law, the learned CIT(Exemption) has erred both on facts and in law in rejecting the application in Form-10AB filed to grant the fresh approval under clause (iii) of first proviso of Section 80G(5) of the Act for the renewal of approval granted in Form 10AC on 23-09-2021 for and for the Astd. Year: From 23-09-2021 to 2024-25 is without jurisdiction, perverse, invalid, arbitrary, bad in law and hence, liable to be struck down.

(2) On the facts and in the circumstances of the case as well as law the learned CIT (Exemption) has erred both on facts and in law in rejecting the application filed u/s 80G(5)(iii) of the Act by illegal and improper application of the provisions contained under sub-section (5B) to Section 80G of the Income Tax Act and hence, the order passed in Form No. 10AD is liable to be struck down.

(3) Your appellant further reverse it’s rights to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of the appeal.”

2.1 ITA No.488/SRT/2025

“(1) On the facts and in the circumstances of the case as well as law, the learned CIT(Exemption) has erred both on facts and in law in rejecting the application in Form-10AB filed to grant the fresh approval under clause (iii) of first proviso of Section 80G(5) of the Act for the renewal of approval granted in Form 10AC on 01-10-2021 for and for the Astd. Year: From 01-10-2021 to 2026-27 is without jurisdiction, perverse, invalid, arbitrary, bad in law and hence, liable to be struck down.

(2) On the facts and in the circumstances of the case as well as law the learned CIT (Exemption) has erred both on facts and in law in rejecting the application filed u/s 80G(5)(iii) of the Act by illegal and improper application of the provisions contained under sub-section (5B) to Section 80G of the Income Tax Act and hence, the order passed in Form No. 10AD is liable to be struck down.

(3) Your appellant further reverse it's rights to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of the appeal."

2.2 ITA No.489/SRT/2025

"(1) On the facts and in the circumstances of the case as well as law, the learned CIT(Exemption) has erred both on facts and in law in rejecting the application in Form-10AB filed to grant the fresh approval under clause (iii) of first proviso of Section 80G(5) of the Act for the renewal of approval granted in Form 10AC on 23-09-2021 for and for the Astd. Year: From 23-09-2021 to 2024-25 is without jurisdiction, perverse, invalid, arbitrary, bad in law and hence, liable to be struck down.

(2) On the facts and in the circumstances of the case as well as law the learned CIT (Exemption) has erred both on facts and in law in rejecting the application filed u/s 80G(5)(iii) of the Act by illegal and improper application of the provisions contained under sub-section (5B) to Section 80G of the Income Tax Act and hence, the order passed in Form No. 10AD is liable to be struck down.

(3) Your appellant further reverse it's rights to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of the appeal."

2.3 ITA No.490/SRT/2025

"(1) On the facts and in the circumstances of the case as well as law, the learned CIT(Exemption) has erred both on facts and in law in rejecting the application in Form-10AB filed to grant the fresh approval under clause (iii) of first proviso of Section 80G(5) of the Act for the renewal of approval granted in Form 10AC on 23-09-2021 for and for the Astd. Year: From 23-09-2021 to 2024-25 is without jurisdiction, perverse, invalid, arbitrary, bad in law and hence, liable to be struck down.

(2) On the facts and in the circumstances of the case as well as law the learned CIT (Exemption) has erred both on facts and in law in rejecting the application filed u/s 80G(5)(iii) of the Act by illegal and improper application of the provisions contained under sub-section (5B) to Section 80G of the Income Tax Act and hence, the order passed in Form No. 10AD is liable to be struck down.

(3) Your appellant further reverse it's rights to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of the appeal."

2.4 ITA No.491/SRT/2025

"(1) On the facts and in the circumstances of the case as well as law, the learned CIT(Exemption) has erred both on facts and in law in rejecting the application in Form-10AB filed to grant the fresh approval under clause (iii) of first proviso of Section 80G(5) of the Act for the renewal of approval granted in Form 10AC on 23-09-2021 for and for the Astt. Year: From 23-09-2021 to 2024-25 is without jurisdiction, perverse, invalid, arbitrary, bad in law and hence, liable to be struck down.

(2) On the facts and in the circumstances of the case as well as law the learned CIT (Exemption) has erred both on facts and in law in rejecting the application filed u/s 80G(5)(iii) of the Act by illegal and improper application of the provisions contained under sub-section (5B) to Section 80G of the Income Tax Act and hence, the order passed in Form No. 10AD is liable to be struck down.

(3) Your appellant further reverse it's rights to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of the appeal."

3. ITA No.487/SRT/2025: Perusal of record show that there is delay of 56 days each in filing appeal before Tribunal. The assessee has filed applications giving reasons for delay in filing of appeal before the Tribunal. In the affidavit, it has been stated that the delay occurred due to reasons beyond the control of the appellant-trust; that the previous Chartered Accountant was handling all matters relating to taxation and his e-mail address was registered on the portal of ITBA; that the order of CIT(E) was given to him for filing appeal before Tribunal but for reasons best known to him, he did not file appeal in time. When the status of appeal was enquired, it was found that he has not filed appeals and appellant took urgent steps to file the appeals before the Tribunal by a new Chartered Accountant, Shri Mitesh S. Modi. For this reasons, there

was small delay of 56 days in filing the appeal. The Ld. AR submitted that the delay was neither intentional nor deliberate. He has relied on the decisions of Hon'ble Supreme Court in cases of (i) Subhakaran & Sons vs. N.A. Kazi, 5th ITO 1984 SCC Online Bom 411, (ii) Collector, Land Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC) and (iii) N. Balakrishnan vs. M. Krishnamurthy (1998) 7 SCC 123 (SC) and requested to condone the delay in filing appeal in the interest of justice.

3.1 On the other hand, Ld. CIT-DR) for the Revenue did not oppose the delay and submitted that the Bench may take an appropriate view.

3.2 We have considered the reasons given by the Ld. AR and perused the accompanied documents along with the applications. We have also carefully gone through the decisions relied upon by the Ld. AR. We find that the delay of 56 days in filing the appeal was neither deliberate nor intentional on the part of assessee-trusts. It was primarily due to mistake of previous Chartered Accountant in not making due response in the appeals proceedings. Moreover, assessee is not going to be benefited by filing appeal belatedly. It is now fairly settled that when technical consideration and cause of substantial justice are pitted against each other, the cause of substantial justice may be preferred. Hence, the delays in filing the appeals are condoned and we proceed to decide the cases on merit.

4. **ITA Nos. 488 to 491/SRT/2025**: There are delay of 56 each in filing appeals of the other 4 cases. The appellant-trusts have filed similar affidavit

and condonation applications, as in the case of Bai Pirojbai Manekji Patel (ITA No.487/SRT/2025). The delays in filing appeals are condoned for the reasons given in the above case (supra).

5. Before deciding the lead case, the following primary facts may be stated in a tabular form for ready reference and appreciation of the issues:

Particulars	Bai Pirojbai Manekji Patel Singanporewalla English School for Girls ITA No.487/SRT/2024	The Sorabji Burjorji Dastur Darab Paahalana Trust Fund ITA No.488/SRT/2025	First Dastur Maherji Rana Trust Fund ITA No.489/SRT/2025	The Sorabjee Nusserwanjee Paruck Parsi Polytechnic Institute ITANo.490/SRT/2025	The Dastur Darab Pahalana Trust Funds ITANo.491/SRT/2025
Date of incorporation	11.11.1912	26.10.1925	24.06.1940	05.08.1954	24.06.1948
Date of registration of trust under Bombay Public Charitable Trust	18.04.1953	29.01.1960	30.01.1954	05.08.1954	18.04.1953
Registration Number under Bombay Public Charitable Trust	C-54	C-228	C-123	C-194	C-53
Permanent Registration u/s 12AB of the Act	Reg No: AAATL1130CE20 210 from AY 2022-23 to AY 2026-27	Reg No: AAATT2648BE19 744 from AY 2022-23 to AY 2026-27	Reg No: AAATT2651AE19 749 from AY 2022-23 to AY 2026-27	Reg No: AABTS2584AE202 11 from AY 2022-23 to AY 2026-27	Reg No: AAATT2657GE20 218 from AY 2022-23 to AY 2026-27

ITA No.487/SRT/2025

6. Facts of the case in brief are that assessee had filed application in Form-10AB for grant of permanent approval u/s 80G(5)(iii) of the Act in respect of temporary approval granted in Form-10AC on 23.09.2021. The Ld. CIT(E) issued notices to the appellant on 19.09.2024, 28.11.2024 and 14.12.2024

requesting the assessee-trust to submit certain details and documents. The appellant furnished some details on 30.10.2024 which was considered by Ld. CIT(E) and appellant was again requested by Ld. CIT(E) to submit point-wise comments on the queries raised in the notices. The Ld. CIT(E) found that assessee has not furnished English translation of the trust deed and the original trust deed was not readable. Therefore, he issued another show cause notice which was not replied to nor any request for adjournment sought for. In absence of requisite details, the Ld. CIT(E) decided the case based on materials available on record and the details/documents furnished along with Form-10AB. Section 80G makes it clear that before granting approval, the Ld. CIT(E) has to satisfy himself about the genuineness of the activities of the trust and fulfilment of all the conditions laid down in clauses(i) to (v) of Section 80G(5) of the Act. In absence of documentary evidence to satisfy the Ld. CIT(E) about the genuineness of activities and fulfilment of the conditions in clauses(i) to (v) of Section 80G(5) of the Act, the Ld. CIT(E) rejected the application filed in Form-10AB for approval u/s 80G(5)(iii) of the Act and he also cancelled the provisional approval.

7. Aggrieved by the order of Ld. CIT(E), the assessee-trust has filed present appeal before the Tribunal. The Ld. AR of the assessee-trust filed a written submission and enclosed various relevant papers and evidences in support of the grounds raised in the appeal. He submitted that the assessee-trust has filed copies of statutory audit report for the preceding three financial years,

copy of registration certificate, issued by Charity Commissioner and copy of trust deed and PTR. He submitted that the Ld. CIT(E) had not considered the materials filed in response to the notices issued by him and rejected the application without going into the merits of the case. The assessee-trust is holding valid permanent registration u/s 12A of the Act. The appellant has been granted provisional approval u/s 80G(5)(iv). He submitted that all the details are available with the assessee and grant one more opportunity may be granted to plead its case on merit.

8. On the other hand, Ld. CIT-DR for the revenue supported the order of Ld. CIT(E). He would, however, have no objection if the matter is remitted back to the file of Ld. CIT(E) for passing a fresh order in accordance with law.

9. We have heard both the parties and perused the materials on record. We find that appellant-trust is very old and was incorporated on 11.11.1912. It was granted permanent registration u/s 12AB of the Act from AY 2022-23 to 2026-27. It was also granted provisional approval in Form-10AC on 23.09.2021. The appellant-trust had submitted various details before the Ld. CIT(E) during the proceedings for permanent approval u/s 80G(5)(iii) of the Act. The appellant-trust had also submitted various details while filing the application for registration in Form-10A. The Ld. AR submitted that the Ld. CIT(E) has passed the instant order without considering the details submitted by the appellant-trust and without giving adequate opportunity of hearing. We have again perused the materials available on record and find that the appellant-

trust was not granted proper opportunity of hearing by the Ld. CIT(E) before passing the order. The principle of *audi alteram partem* envisages that parties are eligible for fair hearing and that no one should be condemned unheard. The Ld. CIT-DR has also no objection if the matter is remitted back to the file of Ld. CIT(E). Thus, considering the totality of facts and the prayer of Ld. AR of the appellant-trust, the order of Ld. CIT(E) is set aside and matter is restored back to the file of Ld.CIT(E) to pass the order afresh in accordance with law after giving adequate and reasonable opportunity of hearing to the appellant-trust. The appellant-trust may also file any other relevant information/evidences, in support of the subject application. With this direction, the grounds of appeal raised by the assessee are treated as allowed for statistical purposes.

10. In the result, appeal of the assessee ITA No.487/SRT/2025 is allowed for statistical purposes.

ITA No.488-491/SRT/2025

11. The facts in all the cases are similar to the facts of ITA No.487/SRT/2025 decided above. The additional facts in these cases are that on perusal of the objects of the appellants, the Ld. CIT(E) observed that part of objectives/objects of the trust deeds are confined for the benefit of the members/families of Parsi Samaj and not for the benefit of public at large. Therefore, the institution or fund is expressed to be for the benefit of particular religious community or cast and is not entitled for the benefit of Section 80G(5) of the Act. Hence, the appellants have violated provisions of

clause(iii) of sub-section (5) of Section 80G of the Act. The Ld. CIT(E) also observed that appellants have not furnished the details of actual religious expenditures to enable his office to verify the violation of sub-section (5B) of Section 80G of the Act. There is limit of 5% of total income towards expenditure of religious nature beyond which benefit of Section 80G is not available. In view of these facts the Ld. CIT(E) rejected the applications for approval u/s 80G(5)(iii) of the Act and cancelled the provisional approval granted earlier.

12. Aggrieved by these orders of Ld. CIT(E), the assessee-trusts submitted that the CIT(E) has drawn the inference without considering the details, documents and materials filed along with the applications in Form-10AB as well as the written submission in response to the notices issued by the Ld. CIT(E). The Ld. AR submitted that the trusts are working to provide scholarships to poor students of every community and not only Parsi Community. Moreover, 12 trusts are working in same premises under the banner of “**Parsi Panchayat**” who runs schools, colleges, hostels and indulge in many other charitable activities in favour of poor and needy people of every caste, creed and community. The trusts have not incurred any substantial religious expenditures exceeding 5% of total income in any of the three preceding years. The Ld. CIT(E) failed to observe these facts and passed the orders without offering proper and fair opportunity of being heard to the appellants. The Ld. CIT(E) failed to establish any nexus between the objects

clause, activities undertaken and financial statements. The Ld. AR, therefore, requested that the orders of Ld. CIT(E) may be set aside for fresh consideration and the appellant-trusts may be given one more opportunity to plead its cases on merit.

13. On the other hand, Ld. CIT-DR for the revenue supported the orders of CIT(E). He would, however, have no objections if the matters are remitted back to the file of Ld. CIT(E) for passing fresh orders as per law.

14. We have heard both the parties and perused the materials on record. We find that appellant-trusts are very old and were incorporated prior to or immediately after independence, as would be evident from the table at para-5 of this order. All trusts were granted permanent registration u/s 12AB of the Act from AY 2022-23 to 2026-27. They were also granted provisional approvals in Form-10AC. The appellant-trusts had submitted various details before the Ld. CIT(E) during the course of the proceedings for permanent approval u/s 80G(5)(iii) of the Act. The appellant-trusts had also submitted various details while filing the applications for registration in Form-10A. The Ld. AR submitted that the Ld. CIT(E) has passed the instant orders without considering the details submitted by the appellant-trusts and without giving adequate opportunity of hearing to the appellant-trusts. Under similar facts and circumstances, we have set aside the order of Ld. CIT(E) in ITA No. 487/SRT/2025 (supra) and remitted back the matters to the file of Ld. CIT(E) for fresh order after granting adequate and reasonable opportunity of hearing

to the said trust. Following the reasons given therein, the orders of Ld. CIT(E) in these 4 appeals are also set aside and restored back to the file of Ld.CIT(E) to pass the orders afresh in accordance with law after giving adequate and reasonable opportunities of hearing to the appellant-trusts. The appellant-trusts may also file any other necessary information/evidences, in support of their respective applications. With this direction, the grounds of appeals raised by the appellant-trusts are treated as allowed for statistical purposes.

15. In the result, these 4 appeals of assessee in ITA Nos.488-491/SRT/2025 are allowed for statistical purposes.

16. In combined result, all 5 appeals of appellant-trusts are allowed for statistical purposes.

Order pronounced under proviso to Rule 34 of the ITAT Rules, 1963 on 23/07/2025 in the open court.

Sd/-
(TR SENTHIL KUMAR)
न्यायिक सदस्य/JUDICIAL MEMBER
सूरत /Surat
दिनांक/ Date: 23/07/2025
Dkp Outsourcing Sr.P.S*

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अद्योषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

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सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत