

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE DINESH MOHAN SINHA, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA Nos.196 to 199/SRT/2025  
(Hybrid Hearing)**

Ganeshmal Choraria Foundation And Charitable Trust, B-1104, Poddar Avenue, Umra B.O. Umra, Surat - 395007	<b>Vs.</b>	The CIT(Exemption), Ahmedabad
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAETG0022E</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Rasesh Shah, CA
<b>Respondent by</b>	Shri Ravi Kant Gupta, CIT-DR
<b>Date of Hearing</b>	06/08/2025
<b>Date of Pronouncement</b>	19/08/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

These four appeals emanate from the separate orders dated 11.10.2023, 07.03.2024, 16.12.2024 and 17.12.2024 passed by the Commissioner of Income-tax (Exemption), Ahmedabad [in short "the CIT(E)"]. In ITA Nos.197/SRT/2025 & 198/SRT/2025, the appeals are against rejection of application for registration u/s 12AB of the Income-tax Act, 1961 (in short, 'the Act'), whereas in ITA Nos.196/SRT/2025 & 199/SRT/2025, the appellant has agitated against rejection of its application for final/regular registrations u/s 12AB and 80G(5) of the Act.

2. The appeals filed by the assessee in ITA No.197 & 199/SRT/2025 are late by 436 and 289 days in terms of provisions of section 253(3) of the Act. The assessee has filed affidavits giving similar reasons for delays in filing both

appeals before this Tribunal. In the affidavit, it has been stated that the CIT(E) rejected the application in Form No.10AB u/s 12A(1)(ac)(iii) of the Act by passing ex parte orders. The provisional registration was granted from AY.2023-24 to 2025-26 and the assessee was required to apply for permanent registration on or before 30.09.2025. Initially, the assessee had not contemplated to file the appeal under the honest belief that registration would be granted by filling new application, for which there was time till 30.09.2025. But, the new application filed on 27.06.2024 and 26.06.2024 were also rejected on the grounds that earlier application was rejected. The assessee filed appeals against the subsequent orders dated 17.12.2024 and 16.12.2024 passed by CIT(E). In view of the facts, it was submitted that the delay in filing appeals was not intentional and assessee was prevented by sufficient and reasonable cause for not filing the appeal in time.

3. On the other hand, the learned Commissioner of Income-tax - Departmental Representative (Id. CIT-DR) for the revenue submitted that the Tribunal may decide the case as it thinks fit.

4. We have considered the reasons given by the Id. AR and perused the accompanying documents along with the affidavit. The delay in filing both appeals were not deliberate and intentional on the part of assessee. Moreover, the assessee was not going to be benefitted by filling 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, delays in filling both appeals are condoned in

the interest of justice subject to the payment of **Rs.10,000/- (Rupees Ten Thousand only)** by the appellant to 'District Legal Services Authority, Surat'.

**ITA No.197/SRT/2025:**

5. The grounds of appeal raised by the assessee in ITA No.197/SRT/2025 are as follows:

*"1. On the facts and in circumstances of the case as well as law on the subject, the learned CIT(E) has erred in passing ex-parte order without serving notices on designated email address of assessee.*

*2. Even otherwise on the facts and in circumstances of the case as well as law on the subject, the learned CIT(E) has erred in rejecting the application of assessee for registration u/s. 12AB of the I.T. Act, 1961 and also provisional registration granted earlier vide order dated without pointing out any specific violation under Explanation to Section 12AB(4).*

*3. It is therefore prayed that order of CIT(E), passed u/s. 12AB of the I.T. Act, 1961 may be set aside and he may be directed to pass fresh order granting approval u/s. 12AB.*

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

6. The brief facts of the case are that the assessee filed an application for registration in Form No.10AB u/s 12A(1)(ac)(iii) of the Act. The CIT(E) issued notices on 12.08.2023 and 03.10.2023. He has discussed legal background of Rules 12A(1)(ac), 17A(1), 17A(2) along with section 12AB of the Act. He noted that the date of application for registration for approval in Form No.10AB u/s 12A(1)(ac)(iii) of the Act was 22.04.2023 and the date of provisional approval was 08.02.2023 for the period from AY.2023-24. The assessee was requested to submit certain details/documents vide notice dated 12.08.2023 and 03.10.2023. In response, the assessee neither filed any submission nor sought any adjournment. In absence of requisite details, the CIT(E) decided the matter

based on material/details/documents available on record. The CIT(E) observed that the assessee has failed to furnish self-certified copies of annual accounts but enclosed unsigned accounts statement for financial year (FY) 2021-22 along with Form 10AB. He relied on the decision of Hon'ble Supreme Court in cases of CIT vs. Dawoodi Bohara Jamat, Civil Appeal No.2492 of 2024 and M/s New Nobel Educational Society, Civil Appeal No.3795 of 2014. Thereafter, the CIT(E) examined the application based on materials on record and held that due to failure of assessee to file documentary evidences, he was unable to be satisfied about (i) genuineness of the activities of the trust or institution, (ii) that the activities of trust or institution are in consonance with the objects of the trust or institution and (iii) that other laws material for the purpose of achieving objects are complied with. The CIT(E) rejected the application filed in Form 10AB for approval sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act and also cancelled the provisional registration.

7. Aggrieved by the order of CIT(E), the assessee filed appeal before this Tribunal. The learned Authorized Representative (Id. AR) submitted that the CIT(E) issued only two notices of hearing on 12.08.2023 and 03.10.2023. The assessee could not appear before the CIT(A) due to non-service of notices in the correct e-mail Id i.e., 'kushal.choraria@gmail.com', instead of email Id 'itassociates2018@gmail.com', in which the notices were wrongly issued. The Id. AR has filed screenshot from the e-filing portal of Income-tax Department in support of such claim. The Id. AR submitted that as the case has been decided without considering the merit of the case, the matter may be set aside

to the file of CIT(E). He submitted that the order passed by CIT(E) is clearly violative of the principles of natural justice. He requested that in the interests of justice, one more opportunity should be given to the assessee to plead its case on merit before the CIT(E).

8. On the other hand, the learned Commissioner of Income-tax - Departmental Representative (Id. CIT-DR) for the revenue submitted that the Tribunal may decide the matter as it thinks fit.

9. We have heard both parties and perused the materials available on record. The CIT(E) issued two notices on 12.08.2023 and 03.10.2023. The CIT(E) has observed that the assessee failed to file documentary evidence during the proceedings. The Id. AR has contended before us that the assessee could not submit necessary details due to non-service of the notice issued by the CIT(E). He submitted that the appellant is ready to submit all details and evidences needed by the CIT(E) and one more opportunity may be given to the assessee. We find that assessee could not pursue its case effectively before the CIT(E) by filing necessary evidences and documents. We are of the view that one more opportunity should be given to the assessee to file relevant documents/evidences and to plead its case before the CIT(E). It is settled law that principles of natural justice requires that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much into the merits of the case, in the interest of justice, we set aside the order of CIT(E) and remit the matter back to the file of CIT(E) with a direction to pass fresh order in accordance with law after granting adequate

opportunity of hearing to the assessee. The assessee is directed to be more vigilant and diligent and to furnish all the details and explanations as needed by the CIT(E) by not seeking adjournment without valid reasons. With these directions, the grounds of appeal are allowed for statistical purposes.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

**ITA No.198/SRT/2025:**

11. The grounds of appeal raised by the assessee are as follows:

*“1. Even otherwise on the facts and in circumstances of the case as well as law on the subject, the learned CIT(E) has erred in rejecting the application of assessee for registration u/s. 12AB of the I.T. Act, 1961.*

*2. It is therefore prayed that order of CIT(E), passed u/s. 12AB of the I.T. Act, 1961 may be set aside and he may be directed to pass fresh order granting approval u/s. 12AB.*

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

12. The facts of the case in brief are that the assessee was granted provisional registration in Form 10AC under clause (vi) of clause (ac) of sub-section (1) of section 12A on 28.02.2023 from AY 2023-24. The CIT(E) observed that the assessee had also filed an application for registration u/s 12A(1)(ac)(iii) of the Act in Form 10AB on 22.04.2023. In response, the order of rejection under Form 10AD had already been passed on 11.10.2023 for cancelling the provisional registration. The CIT(E) further observed that the present appeal was not covered by para 4.1 of CBDT Circular No.7 of 2024, dated 25.04.2024. He rejected the provisional registration in Form 10AB u/s 12A(a)(ac)(iii) of the Act and treated as non-maintainable.

13. The Id. AR submitted that the CIT(E) rejected the application without giving adequate opportunity of hearing and due to the fact that the application for registration u/s 12A(1)(ac)(iii) of the Act filed in Form 10AD was rejected vide order dated 10.11.2023. He requested that the assessee may be granted another opportunity to plead its case on merit. The Id. CIT-DR would have no objection if the matter is restored to the CIT(E). We find that the appeal in ITA No.197/SRT/2025 (supra), on the basis of which the present application for registration was rejected, has been set aside by us and restored to the file of CIT(E) for fresh consideration. Hence, this appeal is also set aside and restored to the file of CIT(E) for fresh order after granting adequate and reasonable opportunity of hearing to the assessee. The appeal is allowed for statistical purpose.

14. In the result, appeal of the assessee is allowed for statistical purposes.

**ITA Nos.196/SRT/2025 & 199/SRT/2025:**

15. In ITA No.196/SRT/2025, the CIT(E) has issued only one notice of hearing was issued on 29.11.2023 and in ITA No.199/SRT/2025, he issued two notices of hearing on 18.09.2024, 05.11.2024. In absence of necessary details and documents and since application of the assessee filed in Form 10AB for registration u/s 12A(1)(ac)(iii) was rejected vide order dated 11.10.2023 by the CIT(E), the CIT(E) proceeded to dismiss both appeals by observing that the assessee did not have any valid registration u/s 12A(1)(ac)(iii). We have already set aside the order of the CIT(E) wherein he rejected the application of registration of trust in ITA No.197/SRT/2025 (supra). These are related

appeals. Hence, the orders of CIT(E) are also set aside and remitted to the file of CIT(E) for de novo order after granting reasonable and sufficient opportunity of being heard to the assessee. For statistical purposes, the appeals of the assessee are treated as allowed.

16. In the combined result, the appeals filed by the assessee are allowed for statistical purposes.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 19/08/2025.

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat

दिनांक/ Date: 19/08/2025

SAMANTA

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**// TRUE COPY //**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat