

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

<b>ITA No. 915/Bang/2025</b>
<b>Assessment Year : NA</b>

M/s. Hamza Welfare Trust, No. 1, Doctors Layout, BTM 3 <sup>rd</sup> Stage, Near Duo Enclave, Kodichikkanahalli, Bangalore – 560 076. <b>PAN: AACTH1908E</b>	<b>Vs.</b>	The Commissioner of Income Tax (Exemptions), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri A.R. Valisha Shakeel, CA
Revenue by	:	Shri Shivanad Kalakeri, CIT-DR

Date of Hearing	:	30-06-2025
Date of Pronouncement	:	15-09-2025

**ORDER**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER**

This is an appeal filed by the assessee challenging the rejection order passed by the Ld.CIT(E) refusing to register the assessee u/s. 12A of the Act on 27/12/2024 and raised the following grounds:

*“1. The rejection order passed by the Ld. CIT (E) on 27.12.2024 under section 12AB of the Act, is against the facts of the case, to the extent the same are prejudicial to the appellant.*

*2. Further, the Ld. CIT (E) erred in stating that, assessee has not made substantial amount of expenditure towards the objects and assessee has not submitted any proof or evidence of activities. Thus, it is clear that the assessee*

*has not commenced its activities towards the attainment of the objects.*

*We would like submit that, the appellant has started receiving donations and constructing a building to undertake the charitable/religious activities as mentioned in the trust deed and the appellant has submitted all the relevant details and documents in support of expenses incurred and attended personal hearing and explained it to the satisfaction of officer as well.*

*In addition to the above, receiving donations and constructing a building to undertake the charitable/religious activities is not amounting to commencement of the activities as mentioned in section 12A/12AB of the Act, if not then what amounts commencement of activities? Because the meaning of "Commencement of Activities" is nowhere described under section 12A/12AB of the Act.*

*Notwithstanding anything submitted above, The Ld. CIT(E) could have been considered the same application and given registration under section 12AB of the Act as religious trust instead of rejecting it and instructing us to file fresh application under religious category.*

*3. Under the circumstances where the grounds of appeal with the substantiations are required to be filed within 60 days of the date of receipt of the order, the Appellant prays that it be permitted to add, amend, alter and improve upon the grounds of appeal.*

**RELIEF SOUGHT**

*1. The appellant prays the Honorable ITAT to consider the facts and circumstances of the case and set aside the rejection order passed by the Ld. CIT(E) and instruct them to grant permanent registration u/s 12AB of the Act and render justice."*

**2.** The assessee filed this appeal with a delay of 52 days and explained that the delay has been occurred because of the reason that the assessee had tried to file an application afresh under the religious trust after the application has been rejected by selecting a different Assessment Year but unable to file the same and thereafter on the advice of the authorities, the present appeal has been filed. The said process took some time and therefore the said delay has been occurred. We have considered the said

submissions and in the interest of justice, we are condoning the said delay of 52 days and proceeded to decide the appeal on merits.

**3.** The brief facts of the case are that the assessee is a private charitable trust and got their registration u/s. 12A of the Act. The assessee in order to get the permanent registration and approval u/s. 80G of the Act had filed the applications before the Ld.CIT(E) on 21/06/2024. Thereafter the JAO had issued notices and the assessee submitted their reply to the said notices. The Ld.CIT(E) had rejected the said application on the ground that the assessee trust is a religious trust and therefore the application filed u/s. 12AB treating the assessee as a charitable trust could not be granted. The Ld.CIT(E) directed the assessee to file a fresh application u/s. 12AB seeking the recognition as religious trust instead of the charitable trust. The assessee was not able to file another application under religious category since the system had not accepted the said application. Therefore the present appeal has been filed challenging the said rejection order of the Ld.CIT(E).

**4.** At the time of hearing, the Ld.AR filed the copies of the trust deed and the financial statements and submitted that the assessee trust is receiving donations and started constructing a building to undertake the charitable / religious activities and produce the relevant details for the expenses incurred towards the same. The Ld.AR further submitted that the receiving of donations and construction of building for doing the charitable activities would amount to commencement of the activities and therefore the rejection order of the Ld.CIT(E) is not in order. Alternatively, the Ld.AR submitted that the Ld.CIT(E) could have granted the registration as a religious trust instead of dismissing the said application.

**5.** The Ld.DR relied on the order of the lower authorities and Ld.CIT(E) and prayed to dismiss the appeal.

**6.** We have heard the arguments of both sides and perused the materials available on record.

7. From the trust deed, we find the main objects are to establish orphanages with boarding and to educate the needy poor orphan boys and girls, to establish health care centres, hospitals and dispensaries etc. Based on the said objects mentioned in the trust deed, the assessee trust was granted provisional registration u/s. 12A of the Act and the provisional approval u/s. 80G of the Act for the period from 2022-23 to 2024-25. Pursuant to the said registration and the approval u/s. 80G of the Act, the assessee trust also received donations and started constructing the buildings to achieve the objects of the trust as mentioned in the trust deed. Therefore only after establishing the infrastructure facilities, the trust can do the charitable activities as mentioned in the objects. The Ld.CIT(E) based on the fact that the assessee trust has a mosque building and therefore the assessee trust could not be treated as a charitable trust but only treated as religious trust.

8. The main objects of the trust are as follows:

*“1. To establish orphanages with boarding and aim to educate the needy poor orphan boys and girls to establish health care centres hospitals dispensaries after care units' schools' adult education centres vocational and technical training institutes libraries house of worship to distribute food medicines books uniforms and to sponsor school fees for deserving students etc. further to promote subject viz.*

*Mathematics computers etc. and languages viz. English, Kannada, Urdu and Arabic in and around the Bangalore.*

*2. To Protect, Espouse, and represent the interest of the needy people.”*

9. The activities of the trust is also in the initial stages and in order to do the said charitable activities, the trust is taking steps. It cannot be stated that the trust has constructed only mosque and therefore the other activities were not carried out by the trust. It is the case of the assessee that they are in the process of creating the infrastructures to establish the orphanages with boarding and other objects mentioned in it. The mere temporary construction of a mosque will not be a reason for rejecting the application on

the ground that the assessee trust is doing religious activities. If the assessee trust is having only the mosques and no other infrastructures for achieving the objects were created, then we can assume that the assessee trust is a religious trust. Even assuming that the assessee trust is religious in nature, it cannot be a ground for rejecting the application sought for by the assessee u/s. 12A of the Act. The Ld.CIT(E) instead of rejecting the application, could have granted the registration as a religious trust.

**10.** But in the facts of the present case, we do not think that the trust can be treated as a religious trust for the simple reason that the assessee had a temporary mosque in their premises. The main activities of the trust should not be religious in nature otherwise the trust is entitled for registration under the provisions of the Act. The Ld.CIT(E) had not pointed out any other activity which are in religious nature to term the assessee trust as a religious trust. In such circumstances, we are of the view that the Ld.CIT(E) had erred in rejecting the application filed by the assessee on the sole reason that the assessee trust is having a temporary mosque in their premises. We, therefore set aside the order of the Ld.CIT(E) and direct the Ld.CIT(E) to decide the application afresh after considering the observations made by us in this order and also after granting a reasonable opportunity of being heard.

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

Order pronounced in the open court on 15<sup>th</sup> September, 2025.

Sd/-  
(WASEEM AHMED)  
Accountant Member

Sd/-  
(SOUNDARARAJAN K.)  
Judicial Member

Bangalore,  
Dated, the 15<sup>th</sup> September, 2025.  
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. Guard file
6. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore