

IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER

ITA No. 806/Mum./2026

(Assessment Year : NA)

**M/s St. Francis. English School through its
Trustee Joseph Vitor D' souza,**

Dsouza Chawl Datta Mandir Road, Bandongri
Malad E, Mumbai - 400061, Maharashtra.

..... Appellant

PAN : AAETS9319J

v/s

**The Commissioner of Income-Tax
(Exemptions), Mumbai,**

Room No.609, 6th Floor, MTNL Tel. Ex. Building,
Cumballa Hills, Pedder Road, Mumbai – 400026.

..... Respondent

Assessee by : Shri Joseph Victor Dsouza (Trustee)

Revenue by : Shri Ajay Modi, CIT. DR

Date of Hearing – 13/04/2026

Date of Order – 17/04/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 30/12/2025, passed by the learned Commissioner of Income Tax (Exemption), Mumbai, [*learned CIT(E)*], rejecting the application filed by the assessee seeking registration u/s 12AB of the Income Tax Act, 1961 (*the Act*).

2. The solitary grievance of the assessee is against the rejection of its application for regularisation of registration u/s 12AB of the Act on account of the absence of an irrevocability clause in the trust deed.

3. We have considered the submissions of both sides and perused the material available on record. The assessee filed an application in Form 10AB u/s 12A(i)(ac)(iii) of the Act on 30.06.2025 seeking registration u/s 12AB of the Act. Upon perusal of the application filed by the assessee, the learned CIT(E) noticed that in response to the question in Para No.6 of the application, i.e., whether the assessee trust deed contains a clause that the trust is irrevocable, the assessee stated 'YES'. However, as per the trust deed/MOA, there is no clause regarding irrevocability or dissolution/winding up of the assessee trust/institution, which is mandatory as per the provisions of the Act.

4. Accordingly, vide impugned order, the learned CIT(E) held that in the absence of an explicit irrevocability and dissolution clause, there exist no statutory safeguard to ensure that the assets of the assessee trust shall be applied solely towards charitable purposes and upon dissolution, shall be transferred to another trust or institution having similar charitable objects, as mandated under the provisions of the Act. Accordingly, the learned CIT(E), vide impugned order, rejected the application filed by the assessee for regularization of provisions of registration in Form 10AB on the ground of non-inclusion of irrevocability or dissolution clause in the trust deed, considering the same to be a "*Specified Violation*" as per Explanation (g) to Section 12AB(4) of the Act. Being aggrieved, the assessee is in appeal before us.

5. Having considered the submissions and perused the material available on record, we find that a similar issue recently came out for consideration before the Hon'ble Jurisdictional High Court in the case of *The Chamber of Tax Consultants Vs. The Commissioner of Income Tax (Exemptions)*, reported in [2026] 184 taxmann.com 374 (Bom), wherein the various Petitioners had challenged the rejection of the application for renewal of registration u/s 12AB of the Act due to the absence of the irrevocability clause in the trust deed. Since, similar to the present case, in the Writ Petitions before the Hon'ble High Court, the question in Para No.6 of the application was replied as 'Yes', the said reply was treated as furnishing 'false or incorrect information', considering the same to be "Specified Violation" in terms of Explanation (g) to Section 12AB(4) of the Act. Vide its judgment dated 09.03.2026, the Hon'ble Jurisdictional High Court, in the aforesaid case, allowed all the Writ Petitions and passed the following directions: -

"46. In the result, the Writ Petition is allowed. Due to the peculiar facts, as presented by the Petitioners, we pass the following order:

- (i) *The Respondents shall refrain from rejecting applications for registration/renewal under section 12AB solely on the ground of the absence of an explicit irrevocability and/or dissolution clause in the Trust Deed/instrument.*
- (ii) *The Respondents shall not treat the answer "Yes" to Row 6 of Form 10AB, in the absence of any explicit clause of irrevocability, as furnishing "false or incorrect information" constituting a "specified violation". Further, this shall not be a ground to reject an application for registration under section 12AB of the Act.*
- (iii) *The Respondents shall also amend the utility of Form 10A/10AB to allow applicants to correctly state their position regarding the irrevocability clause without being forced to make an incorrect declaration. This should be done as soon as possible.*
- (iv) *Question number 6 in Form 10AB should be modified to read thus, "Is the trust/institution revocable?".*

- (v) *The impugned orders passed in the case of Petitioner Nos. 3 to 8 rejecting registration under section 12AB of the Income-tax Act, are hereby quashed and set aside.*
- (vi) *All such orders where renewal of registration under Section 12AB has been rejected on the grounds discussed above, are also hereby quashed and set aside.*
- (vii) *Further, it is also directed that all consequential orders passed denying registration under section 80G of the Act, where such rejection is on the ground that once registration under section 12AB is denied, registration under section 80G also cannot be granted, are also hereby quashed and set aside. This would, of course, apply only to a case where registration under section 12AB has been rejected on the grounds discussed above. The above order that we pass is to avoid any multiplicity of litigation so as to not require the trusts to challenge the orders passed by Respondent No. 1 denying registration under section 12AB and 80G of the Act on the grounds as discussed in this order.*
- (viii) *Respondent No.1 shall decide the applications of the Petitioners and all other similarly situated trusts, whose orders are hereby quashed, afresh and in accordance with the law and the ratio laid down in this judgment, within a period of six weeks from today. Any order so passed shall be deemed to come into effect from 1st April, 2026."*

8. Therefore, respectfully following the decision of the Hon'ble Jurisdictional High Court cited *supra*, we quash the impugned order and restore the application filed by the assessee in Form 10AB for regularisation of the registration u/s 12AB of the Act to the file of the learned CIT(E) for *de novo* adjudication, as per law, keeping in consideration the observations/directions of the Hon'ble Jurisdictional High Court in the aforesaid decision. As a result, the grounds raised by the assessee are allowed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 17/04/2026

**Sd/-
BIJAYANANDA PRUETH
ACCOUNTANT MEMBER**

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 17/04/2026

*M. Ranganath Vithal
Sr. Private Secretary*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai