

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 16/Mum/2025

Mitra Parivar, 301, Maganlal Kala, Gulmohar Road No.1, JVPD Extn. Andheri (West), Mumbai-400049. PAN : AAATM5059M	vs.	CIT (Exemptions), Room No. 601, 6 th Floor, Cumballa Hills, MTNL TE Building, Pedder Road, Dr.Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai-400026.
(Appellant)		(Respondent)

For Assessee :	Mr. Niraj Seth
For Revenue :	Shri Umashankar Prasad, CIT-DR

Date of Hearing :	01-10-2025
Date of Pronouncement :	31-10-2025

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Exemptions)-Mumbai ['Ld.CIT(E)'], dated 19-11-2024, rejecting the assessee's application moved u/s. 80G(5)(iii) of the Income Tax Act, 1961 ('the Act').

2. Briefly the facts of the case are that the assessee moved an application in Form 10AB u/s. 80G(5)(iii) of the Act, seeking approval u/s. 80G of the Act. The application so filed was taken up for examination by the ld CIT(E) and notices were issued calling for the necessary

information/documentation. On perusal of the objects of the Trust Deed, the Ld. CIT(E) observed that as per one of the objects of the Trust Deed i.e, Object No. 3(e) – *“to render financial assistance to students for prosecuting studies in India or abroad in any specialized subject on such terms as may be thought fit”*, the assessee intends to apply funds outside of India and a show cause was issued to the assessee seeking necessary clarification.

3. In its submissions, the assessee-trust submitted that the trust vide the said clause meant to provide betterment and incentive/assistance to students for further studies either in India or abroad. It was submitted that such assistance is given in India or by assisting in Indian rupees within India whether the study is in India or abroad and nowhere it is mentioned in the Trust Deed that assistance will be paid in foreign currency.

4. Taking the submissions of the assessee into account, the Ld.CIT(E) stated that the assessee is accepting that the assistance to students for study in India or abroad is provided by the Trust and its claim that such assistance is given in India in Indian rupees whether the study is in India or abroad is not valid as the expenditure in India for study abroad effectively results in application of funds outside India.

5. It is also evident from the impugned order that the assessee filed further submissions on 25-10-2024 containing an affidavit and copy of the resolution passed in the meeting of the trustees and the contents thereof reads as under:

"Resolved that Ramesh Sheth is authorized to inform Income Tax Department that trust has not remitted any donation in Foreign Currency since its inception and trustees have no intention to remit any donation in Foreign Currency in Future also.

For removal of doubt, it is unanimously agreed by trustees that necessary change in Clause 3(k) may be carried out and word "abroad" may be deleted from object clause and to inform office of the Charity Commissioner accordingly in due course."

6. The Ld.CIT(E) referred to the resolution so passed by the trustees and where it is stated that the necessary changes may be carried out in the trust deed and word "abroad" may be deleted by the trust and by reading of the said resolution, the Ld CIT(E) stated that the assessee-trust has not resolved that it would necessarily change or delete the violating terms and the said resolution only offers a possibility that the trust may undertake change and such response clearly leaves room for any potential future change in course of action by the assessee-trust. As per the Ld.CIT(E), the assessee has not presented/submitted any documentary evidence that it has actually initiated the process for amendment in Trust Deed before the competent authority. The Ld CIT(E) held that the explanation submitted by the assessee against violation of section 11 of the Act is neither satisfactory nor conclusive and, therefore, is not acceptable. The Ld.CIT(E) further referred to the provisions of clauses (i) to (v) of section 80G(5) of the Act and held that in absence of necessary and sufficient compliance by the assessee, he is unable to arrive at a satisfactory conclusion on these parameters and in view of the same, the Ld.CIT(E) rejected the application of the assessee, seeking registration u/s. 80G of the Act.

7. Against the said order and the findings of the Ld.CIT(E), the assessee is in appeal before us.

8. During the course of hearing, the Ld.AR drawn our reference to the provisions of clauses (i) to (v) of section 80G(5) of the Act and it was submitted that for the purposes of grant of registration, the Ld.CIT(E) has to satisfy himself about the genuineness of the activities of the trust and

the fulfillment of the conditions so laid down in clauses (i) to (v) of section 80G(5) of the Act. It was submitted that as evident from the impugned order, no adverse findings have been recorded by the Ld.CIT(E) in terms of the genuineness of the activities of the trust or non-fulfillment of any of the conditions so laid down in clauses (i) to (v) of Section 80G(5) the Act and merely stating that in absence of necessary and sufficient compliance in a summarily manner, the Ld.CIT(E) has rejected the application seeking grant of registration u/s. 80G(5) of the Act without highlighting or point out what specific non-compliances have been observed by him.

9. Further, in the context of the findings of the Ld.CIT(E) that there is a violation of section 11 of the Act, our reference was drawn to the provisions of section 11 which read as under:

“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) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;*
- (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) *income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.”*

10. It was submitted that the Ld.CIT(E) has not specified under what clause of Section 11, there is violation or potential violation by the assessee. It was further submitted that clause 11(b) does not apply in the instant case as the same applies to trust created being commencement of the Act. As far as clause 11(1)(c) is concerned, it was submitted that the same talks about a trust created for charitable purposes which tend to promote international welfare in which India is interested to the extent to which such income is applied to such purposes outside of India and for the purposes, the Board by way of general or specific order has to direct that it shall not be included the total income of the person. It was submitted that even such clause has no applicability as far as the facts of the instant case is concerned as the assessee-trust has not been created to promote any international welfare.

11. Further referring to section 11(1)(a), it was submitted that it relates to income derived from property held under trust wholly for charitable or relevant purposes to the extent to which such income is applied to such purposes in India. It was submitted that in the instant case as so submitted before the Ld.CIT(E), the assessee-trust intends to provide financial assistance to students for prosecuting studies in India or abroad and such assistance will be given in India by assisting in Indian rupees to Indian students and, therefore, as far as application of income is concerned, the same will happens for educational purposes in India. It

was submitted that in any case, the assessee-trust has not remitted any donation in foreign currency since its inception and has no intention to remit any donation in foreign currency in future also and for removal of any doubts, the same was submitted before the Ld.CIT(E) by way of an affidavit and even resolution was passed by the trustees that the word “abroad” in one of the objects may be deleted from the object clause and for which the necessary application shall be moved before the Charity Commissioner and a certified copy thereof was submitted before the Id CIT(E) which he has failed to appreciate in correct perspective. It was accordingly submitted that there is no violation of section 11 of the Act and if at all there is a likelihood of potential violation as so apprehended by the Id CIT(E), it would be for the purposes of determining the income which qualifies for exemption u/s. 11 and as far as the registration u/s. 80G is concerned, the same cannot form the basis for denial of registration.

12. In this regard, our reference was also drawn to the decision of the Hon’ble Delhi High Court in the case of M.K. Nambyar Saarf Law Charitable Trust vs. Union of India [2004] 140 TAXMAN 616 (Delhi). It was submitted that in the said case, the application seeking registration u/s. 12A of the Act as well as u/s. 80G of the Act was rejected on the ground that the assessee in the said case had admitted that the scholarship can be paid to Members even outside of India and even in the context of the said facts, the Hon’ble High Court has held that in the absence of order u/s. 11(1)(a)(c) of the Act, one cannot seek benefit for application for charitable or religious purposes outside of India and, therefore, as far as income which is applied outside of India is concerned, the same is not a relevant criteria for rejecting the application and the relevant findings therein read as under:

“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.”

13. It was submitted that the said decision was subsequently followed by the Co-ordinate Bench of the Tribunal in the case of *Foundation for Indo-German Studies vs. DIT(Exemptions)* [2016] 74 taxmann.com 66 (Hyderabad-Trib), wherein the similar proposition has been laid down. Further reference was drawn to the decision of the Co-ordinate Bench of the Tribunal in the case of *National Informatics Centre Services Inc. vs. DIT (Exemptions)*, New Delhi [2017] 88 taxmann.com 878 (Delhi-Trib), wherein it was held that although the objects of the trust carried out activities outside of India, but no activity as such has been carried out

and, therefore, no approval of the Board was required to be taken and there was no necessity to make the amendment to the main objects and in light of that, following the decision of the Hon'ble Delhi High Court in the case of M.K. Nambyar Saarf Law Charitable Trust vs. Union of India (supra), it was held that DIT(Exemptions) was not justified in denying registration u/s. 12AA r.w.s. 12A of the Act and the relevant findings therein reads as under:

“We have heard the rival contentions and perused the facts of the case. There is no dispute to the fact that the assessee has placed on record the final accounts which have been perused by us. It is also not in dispute that the main objects of the institution include the carrying out of the activities outside India. Learned DIT(E) as well as learned DR arguing the matter before us has not brought on record the necessity of the amendment of the main objects and the necessity application of Section 11(1) of the Act. None of the expenditure has been pointed out either by the learned DIT(E) or by the learned DR which have been incurred by the assessee for carrying out any activity outside India. While granting the registration u/s 12AA(1), the DIT(E) on receipt of the application for registration of the institution has to satisfy himself about genuineness of the activities of the Trust and making such inquiries as may deem necessary in this behalf after satisfying himself about the objects of the trust or institution on the genuineness of his activities. In this regard as mentioned hereinbefore the objects of the trust are there to carry out the activities outside India but no activity as such has been carried out, and therefore, no approval of the Board is required to be taken from the Board. There is no necessity to make the amendment of the main objects. Also none of the activities has been brought to our notice by the learned DR and no material placed before us to show that any expenditure outside India has been incurred by the assessee or any activity outside India has been carried out. In such circumstances and facts of the case, the learned DIT(E) is not justified in denying registration u/s.12AA r.w.s. 12A of the Act. The reliance is placed upon the decision of Hon'ble Delhi High Court in the case of M.K. Numbyar Saarf Law Charitable Trust (supra).”

14. Further, our reference was drawn to the Co-ordinate Bench of the Tribunal in the case of Sarbat The Bhala Gurmat Mission Charitable Trust vs. CIT (Exemptions), in ITA No. 297/Chd/2020, dt. 30-03-2021, wherein similar proposition has been laid down and the relevant findings read as under:

“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; . .

(a) income derived from property held under trust-

(b) (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

(c) (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:

(d) 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;. ."

(e) 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 February 24, 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, it is not a relevant criteria for rejecting the application. In the absence of an order under section 11(1)(a) and (c), one cannot seek benefit for application of income for charitable or religious purposes, outside India. Therefore, the order dated February 24, 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 clear that even the application under section 80G is required to be considered afresh. It is directed that the applications 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).*

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. "*

15. Finally, our reference was drawn to the decision of the Co-ordinate Bench of the Tribunal in the case of Jamsetji Tata Trust vs. JDIT(Exemptions) [2014] 44 taxmann.com 447 (Mumbai-Trib.), wherein the relevant findings read as under:

"10.5 We have considered the rival submissions and perused the relevant material. The assessee has given grant to 97 scholars studying in various institutions and universities outside India and the total amount of grant is Rs. 1,53,50,000/-. The assessee paid the grant in India and for the purpose of education of Indian students/persons, thus the charitable purpose of the grant is education of Indian persons. The application of income of the assessee completes at the point when the assessee released the grant which took place in India. The decision relied upon by the revenue is not applicable in the facts of the present case as the application of income took place in India and for the purpose of education of Indian students/persons. Therefore, for taking education by beneficiary from abroad would not amount to application of income of the assessee outside India. In the case of Bharata Kalanji (supra) the Chennai Bench of this Tribunal while deciding a question arising from the payment of Rs. 1.55 lakh made to a travel corporation of India for sending a troop on tour. The AO treated the expenditure as application of income of the trust for charitable purpose. However CIT revised the assessment and was of the opinion that this expenditure was prohibited and was not applied for purpose of trust in India and, therefore, not eligible for exemption u/s 11. The main object of the trust was to advance, propagate, increase and promotion of Indian classical and Folk arts and Indian music etc. The trust was invited by the Government of Nigeria to give certain dance performance abroad. Accordingly the trust sent a troop and paid a sum of Rs. 1.55 lakh being the passage money to the Travel Corporation of India. The Tribunal held in para 6 as under-

"6. The crucial question is only whether the conditions in section 11 are complied with. That section states that the income derived from property held under trust wholly for charitable purposes shall not be included in the total income to the extent to which such income is applied to such purposes in India. The question is whether this section requires the application of money in India or the carrying out of the purposes in India or both. The contention of the revenue is that apart from the money being spent in India even the purpose must be carried out in India. The section itself contradicts this contention. Section 11(1)(c)(ii) provides that income applied to such purposes outside India is exempt in the case of trust created before 1-4-1952 subject to the approval of the Board. This underlines the principle that Governments do not forego their revenue in favour of charges paid outside their countries and hence the relevant consideration is whether the situs of the application of the money and not the place in which the objects of the trust may become effective. It may be pertinent to refer to section 1 of 16 which exempts scholarships granted to meet the cost of education where also the CBDT itself does not consider scholarship granted for education abroad as money spent outside India. Similarly in the present case of such a wide object of propagation of art it would be difficult to confine it to the shores of the land. We are of the considered opinion that the expression "applied to such purposes in India" refers only to the situs of the expenditure and not "to the place where the "purposes are carried out. The fact that the troupe gave the performance abroad is therefore no disqualification for treating the amount actually spent in India as application of the amount for charitable purposes. The Commissioner also referred to collections made for performances given as an activity for profit. We find that such performances do not constitute activities for profit as the collections are in the nature of donations received for the purposes of the trust. Hence this objection also cannot be sustained, It follows that the exemption granted by the Income-tax Officer was not erroneous and did not require to be reviewed by the Commissioner. Hence his order u/s 263 is cancelled. The appeal is allowed."

10.6 Similarly in the case of CEO Clubs India (supra), coordinate bench of this Tribunal has held in para 11 as under-

"The other objection of the DIT was that the activities of the Assessee were not confined to India and therefore registration cannot be granted. The basis for these observations is that conferences were to be held outside India. We are of the view that holding of conferences abroad would not make the activities of the Assessee being carried out outside India. The benefits of such conference will ultimate go to Assessee and its members. It cannot be said that the activities of the Assessee were carried on outside India."

10.7 Following the above decisions of Tribunal, we hold that the education grant given to the Indian students in India for education/higher education abroad fulfills the conditions of application of money for such purpose in India."

16. Per contra, the Ld. CIT-DR is heard, who has relied on the order passed by the Ld.CIT(E). Further, the Ld.CIT-DR has relied upon the

decision of the Co-ordinate Benches of the Tribunal in case(s) of Sila For Change Foundation vs. CIT, ITA Nos. 4274/Mum/2024 & 4275/Mum/2024, dt. 20-12-2024 and Foundation for Indian Sporting Talent vs. Dept. of Income Tax, in ITA Nos. 1489/Bang/2013 & 1329/Bang/2014, dt. 26-08-2016.

17. We have heard the rival contentions and perused the material available on record. For the purposes of grant of registration u/s 80G(5), the Ld.CIT(E) has to satisfy himself about the genuineness of the activities of the trust and the fulfillment of the conditions so laid down in clauses (i) to (v) of section 80G(5) of the Act. No adverse findings have been recorded by the Ld.CIT(E) in terms of the genuineness of the activities of the trust.

18. As far as non-fulfillment of the conditions so laid down in clauses (i) to (v) of Section 80G(5) the Act, Ld.CIT(E) held that the explanation submitted by the assessee against violation of section 11 of the Act is neither satisfactory nor conclusive and, therefore, in absence of necessary and sufficient compliance by the assessee, he is unable to arrive at a satisfactory conclusion on these parameters and in view of the same, the ld CIT(E) rejected the application of the assessee, seeking registration u/s. 80G of the Act. In effect, the ld CIT(E) has referred to the non-fulfillment of condition as so specified in 80G(5)(i) which provides that where the institution or fund derives any income, such income would not be liable for inclusion in its total income under the provisions of section 11 and 12 of the Act.

19. In this regard, the Ld.CIT(E) has referred to the one of the object clause in the trust deed and held that the assessee seeks to provide financial assistance to students for studies abroad and the same will result

in application of income outside of India and thus, there would be a violation of provisions of section 11 and such income would in effect be includible in total income and hence, there is violation of 80G(5)(i) of the Act.

20. In this regard, we find that firstly, the object clause in the trust deed as so referred by the Id CIT(E) talks about providing financial assistance to students for studies in India or abroad and thus, the same doesn't specifically referred to studies abroad. Secondly, the assessee has submitted that such financial assistance shall be given in India in Indian Rupees for students for their studies in India or abroad and in the past, it has not provided any financial assistance in foreign currency nor it has any intention to remit in future any financial assistance in foreign currency. The assessee has also passed a resolution to this effect in the meeting of its trustees and a certified copy thereof alongwith an affidavit has also been submitted.

21. We therefore find that the assessee has sufficiently explained and substantiated that it intends to provide financial assistance to students for studies in India or abroad whereby such financial assistance shall be provided in India in Indian rupees and that too, to Indian students and in such a scenario, the application of income will happen for educational purposes in India as soon as the assessee releases the funds which undisputedly will happen in India. The fact that financial assistance so provided will be utilized by students for studies abroad cannot be read and understood as providing financial assistance outside of India and consequent application of income outside of India. Similar view has been taken by the Coordinate Bench in case of Jamsetji Tata Trust (*supra*) and we duly endorse that view. Further, we find that the assessee trust in

order to put at rest any doubts has also stated that it shall carry out necessary amendment in its object clause and shall move appropriate application before the Charity Commissioner. There, thus remains no doubt that the assessee has sufficiently explained and substantiated through passing of the resolution that application of income shall happen in India.

22. The insistence by the Ld.CIT(E) for the actual amendment in the trust deed is thus not warranted in the facts and circumstances of the case especially in context of clause (i) to section 80G(5) of the Act as the same seems desirable in context of clause (ii) to section 80G(5) which is not applicable in the instant case. In light of the same, we are of the considered view that there is no justifiable legal and factual basis to deny registration to assessee trust and the order so passed by the Ld.CIT(E) is hereby set-aside and the Ld.CIT(E) is hereby directed to grant registration to assessee trust u/s 80G(5) of the Act.

23. In the result, the appeal of assessee is allowed.

Order pronounced in the open court on 31-10-2025

Sd/-
[RAHUL CHAUDHARY]
JUDICIAL MEMBER

Mumbai,
Dated: 31-10-2025

TNMM

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai