

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.4488/Mum/2026 (Assessment year: 2027-28 to 2031-32)

ITA No.4489/Mum/2026 (Assessment year: 2027-28 to 2036-37)

ITA No.4490/Mum/2026 (Assessment year: 2027-28 to 2031-32)

ITA No.4491/Mum/2026 (Assessment year: 2027-28 to 2036-37)

<b>ILLA Rajesh Foundation</b> 6F, 6 <sup>th</sup> Floor, Court Chambers, 35, New Marine Lines, Churchgate, Mumbai-400020 <b>PAN: AAATI0025K</b>	<b>vs</b>	<b>CIT (Exemptions), Mumbai</b> Room No.601, 6 <sup>th</sup> Floor, Cumballa Hill, MTNL Telephone Building, Pedder Road, Mumbai-400026
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Jitendra Sanghavi- CA

Revenue by : Shri R.A. Dhyani (CIT DR)

Date of hearing : 12/05/2026

Date of pronouncement : 15/05/2026

**ORDER**

**Per Bench:**

A bunch of four appeals pertains to the same assessee arise out from the orders of the Ld. Commissioner of Income Tax (Exemption), Mumbai [for brevity the "Ld. CIT(A)"], orders passed under section 12A of the Act and 80G(5) of the Act (for brevity 'the Act'), date of orders 28.02.2026 and 04.04.2026.

2. Since all the appeals pertain to the same assessee, involving similar issues arising out of a similar factual matrix, these appeals were heard together as a matter of convenience and are being decided by way of this consolidated order. We adjudicate appeal dividing in two bunches. **ITA No.4489 and 4490/Mum/2026** are related to granting conditional registration u/sec. 12A and u/sec. 80G of the Act respectively. Further, **ITA No.4491 and 4488/Mum/2026** are related to the rejections of applications of registration u/sec 12A and u/sec 80G of the Act respectively.

**ITA No.4489 & 4490/Mum/2026 (conditional registration u/sec 12A & 80G)**

3. The brief facts of the case are that the assessee is a charitable trust which had filed an application in Form No. 10AB under section 12A(1)(ac)(ii) of the Act seeking renewal of registration under section 12AB of the Act. During the course of proceedings, the Ld. CIT(E) observed that the documents accompanying the application for registration were incomplete. Accordingly, a notice under Rule 17A(2) of the Income Tax Rules, 1962 was issued calling upon the assessee to furnish the requisite documents. Upon verification of the trust deed and related documents, the Ld. CIT(E) noticed that the clause relating to "Irrevocable Trust" was absent in the trust deed. Admittedly, the said clause was not incorporated in the trust deed during the course of hearing before the Ld. CIT(E). Considering the aforesaid deficiency, the Ld. CIT(E), vide order dated 28.02.2026, rejected/cancelled the registration sought under section 12AB of the Act. Consequently, the application filed by the assessee seeking approval under section 80G of the Act was also rejected on account of rejection of registration under section 12A of the Act. Subsequently, the Hon'ble Bombay High Court in

the case of **Chamber of Tax Consultants vs. Commissioner of Income Tax (Exemption)** reported in [2026] 184 taxmann.com 374 (Bom) laid down that registration under sections 12AB and 80G could be granted subject to compliance with specified conditions. Pursuant to the aforesaid judgment of the Hon'ble Jurisdictional High Court, the Ld. CIT(E) passed an order dated 04.04.2026 granting conditional renewal of registration to the assessee. The assessee is now in appeal before us challenging the imposition of such conditional registration. The relevant observations contained in impugned order of the Ld. CIT(E) passed u/sec 12A in paragraph 15 are reproduced hereunder:

*"15. In this case, the instrument of trust does not contain any explicit clause affirming that the transfer of property under trust is an irrevocable transfer for all times. Section 332(2)(b) of the Income Tax Act, 2025 inter-alia lays down that a public trust is eligible for registration, only if the trust properties are held for the benefit of the general public under an irrevocable trust. The date of commencement of Income Tax Act, 2025 is 1st April 2026 i.e the same date from which renewal of registration/approval has been sought by the applicant. Therefore, the eligibility conditions prescribed in the Statute for registration/approval are not satisfied in this case. However, Hon'ble Bombay High Court in the Writ Petition(L) No.7587 of 2026 In the case of The Chamber of Tax Consultants &Ors deemed irrevocable by operation of Vs The CIT(E) has held that a public charitable trust is deer law unless the instrument of trust expressly provides a power of revocation and directed the Department to refrain from rejecting applications for registration/renewal under section 12AB solely on the ground of the absence of an explicit irrevocability clause in the Trust Deed/instrument. Revenue is preferring to move a Special Leave Petition before the Hon'ble Supreme Court against the said order. In the background of these facts, this renewal of registration/approval is being granted in respectful compliance to the binding judicial directions of Hon'ble Bombay High Court. However, the applicant Trust, doner entities and other stakeholders are hereby Informed, by way of abundant*

*caution, that the applicability and consequential tax-benefits of this registration/approval w.e.f. 01.04.2026 onwards, remain subject to outcome of the decision of Hon'ble Supreme Court."*

4. Further, related to **ITA No.4490/Mum/2026** for approval of registration u/sec. 80G the Ld. CIT(E) had noted the observations in the impugned order in **paragraph 5** which is reproduced as below:

*"5. contain In this case, the instrument of trust does not contain any explicit clause affirming that the transfer of property under trust is an irrevocable transfer for all times. Section 332(2)(b) of the Income Tax Act, 2025 inter-alia lays down that a public trust is eligible for registration, only if the trust properties are held for the benefit of the general public under an irrevocable trust. The date of commencement of Income Tax Act, 2025 is 1st April 2026 i.e the same date from which renewal of registration/approval has been sought by the applicant. Therefore, the eligibility conditions prescribed in the Statute for registration/approval are not satisfied in this case. However, Hon'ble Bombay High Court in the Writ Petition(L) No.7587 of 2026 in the case of The Chamber of Tax Consultants &Ors Vs The CIT(E) has held that a public charitable trust is deemed irrevocable by operation of law unless the instrument of trust expressly provides a power of revocation and directed the Department to refrain from rejecting applications for registration/renewal under section 12AB/80G solely on the ground of the absence of an explicit irrevocability clause in the Trust Deed/instrument. Revenue is preferring to move a Special Leave Petition before the Hon'ble Supreme Court against the said order. In the background of these facts, this renewal of registration/approval is being granted in respectful compliance to the binding judicial directions of Hon'ble Bombay High Court. However, the applicant Trust, doner entities and other stakeholders are hereby informed, by way of abundant caution, that the applicability and consequential tax-benefits of this registration/approval w.e.f. 01.04.2026 onwards, remain subject to outcome of the decision of Hon'ble Supreme Court."*

5. The Ld. AR contended that the Ld. CIT(E) had granted conditional registration which is beyond his jurisdiction. He argued that the Ld. CIT(E) could not have stipulated conditions on his own (other than what is stipulated in law) while granting registration under section 12AB of the Act as the scheme of the law does not visualize these conditions being part of granting of registration to charitable trust. In any case the assessee is found any fault u/sec 12AB(4) and (5)

of the Act or any adverse ruling is passed by the Higher Judicial forum the Ld. CIT(E) is empowered for cancellation of registration. On a practical aspect, the day-to-day activities and functioning of the assessee are being adversely affected due to the conditions imposed by the Ld. CIT(E), which are beyond the scope and stipulations prescribed under the law. The Ld. AR invited our attention in the order of Coordinate Bench of ITAT, Mumbai 'C' Bench in the case of **Chamber of Indian Charitable Trust vs PCIT in ITA No.2168 and 2169/Mum/2021**, date of pronouncement **28.09.2022**. The relevant observations of the bench contended in paragraph **no.9** and paragraph **no.32** are reproduced as below:

*"9. Shri Pardiwala further pointed out that, the Commissioner of Income-tax is a quasi-judicial authority and can only exercise those powers which are expressly conferred upon him under the Act. Absent such explicit conferment, the Commissioner cannot be assumed to have any implied powers. In this regard, he placed reliance on the judgment of the Hon'ble Supreme Court in the case of Industrial Infrastructure Development Corporation vs. CIT (2018) (403 ITR 1), wherein the Court held that prior to the amendments made by the Finance (No. 2) Act, 2004 which conferred on the Commissioner the power to cancel registration, no such implied power could be inferred. The relevant extract of the judgment is as under-*

*"21. In our considered opinion, the CIT had no express power of cancellation of the registration certificate once granted by him to the assessee under Section 12A till 01.10.2004. It is for the reasons that, first, there was no express provision in the Act vesting the CIT with the power to cancel the registration certificate granted under Section 12A of the Act. Second, the order passed under Section 12A by the CIT is a quasi judicial order and being quasi judicial in nature, it could be withdrawn/recalled by the CIT only when there was express power vested in him under the Act to do so. In this case there was no such express power.*

*22. Indeed, the functions exercisable by the CIT under Section 12A are neither legislative and nor executive but as mentioned above they are essentially quasi judicial in nature.*

*27. It is not in dispute that an express power was conferred on the CIT to cancel the registration for the first time by enacting sub-Section (3) in Section 12AA only with effect from 01.10.2004 by the Finance (No.2) Act 2004 (23 of 2004) and hence such power could be*

*exercised by the CIT only on and after 01.10.2004, i.e., (assessment year 2004-2005) because the amendment in question was not retrospective but was prospective in nature."*

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32. Having held so, we now proceed to adjudicate the objections/grounds raised by the assessee in this appeal against the conditions stipulated by the Ld. CIT(E) in his order at Sl No. 10 passed in Form 10AC. Having regard to the rival submissions, we agree with the Ld. AR that the language employed in Section 12AB of the Act does not suggest that while granting registration u/s 12A of the Act the Ld. PCIT/CIT is empowered to stipulate any conditions subject to which registration shall be granted. We are unable to agree with the Ld. CIT-DR's contention that the Ld. CIT(E) was justified in stipulating these conditions as it was set out in prescribed Form 10AC, which at serial 10 says about "conditions subject to which registration being granted". For the elaborate contentions set out by the Ld. Sr. Counsel, as already discussed above, and the case laws cited according to us, the Form prescribed by the CBDT in terms of Rule 17A cannot override or expand the scope of the statutory provision contained in Section 12AB of the Act, we agree with the Ld. AR that the subordinate/delegated legislation which is placed before the Parliament in terms of section 296 of the Act, does not elevate such subordinate legislation to the level of the law enacted by the Parliament, as held by the Hon'ble Supreme Court in the case of *Bharat Hari Singhania Vs CWT (supra)* and the Hon'ble Karnataka High Court in the case of *V. Verghese and Anr. Vs DCIT (supra)*. Moreover, as rightly pointed out by the Ld. Sr. counsel, it was the relevant Rule as prescribed by the statute, i.e. Rule 17A that was placed before Parliament u/s 296 of the Act and not the Form. We note that there is no mention of conferring of power upon the Ld. CIT to stipulate conditions for granting registration in Rule 17A (already reproduced above) of the Rules. Hence, the contention of the Ld. CIT-DR, that the conditions stipulated at Sl No. 10 of Form 10AC had been placed and impliedly approved by the Parliament cannot be accepted. Even otherwise, if the said Form was indeed placed before the parliament, in view of Hon'ble Supreme Court decision in the case of *Hukum Chand Vs UOI (supra)*, it cannot stipulate anything more than what is contained in the extant section/ provision of law as enacted by the Legislature [ie. in this case, Section 12AB of the Act]. We thus agree with the submissions of the Ld. Sr. counsel that the Ld. CIT(E) could not have been empowered to stipulate conditions while granting registration in Form 10AC, which is otherwise not expressly provided in provisions contained in Section 12AB of the Act."

6. The Ld. AR further, respectfully relied on Coordinate Bench of ITAT, Mumbai in the case of **Bai Navajbai Tata Zoroastrian Girls School vs. CIT(E)** reported in (2022) 141 taxmann.com 62 (Mumbai-Trib.) held that *Where Commissioner while granting registration under section 12A imposed conditions on assessee-*

*charitable trust with respect to conduct of trust and circumstances in which registration granted to assessee could be cancelled, since aforesaid conditions are regulated by specific provisions of law, Commissioner's guidance about conduct of assessee could not be construed as legally binding and said conditional grant would stand vacated."*

7. The Ld. DR supported the orders passed by the revenue authorities. However, with regard to the jurisdiction of the Ld. CIT(E) to impose conditions while granting registration, the Ld. DR remained silent and was unable to bring on record any contrary judicial precedent rebutting the submissions advanced by the Ld. AR.

8. We heard the rival submissions and perused the material available on record. The primary issue involved in **ITA No.4489/Mum/2026** and **ITA No.4490/Mum/2026** relates to the legality and validity of the conditional registration/approval granted by the Ld. CIT(E) under section 12AB and section 80G of the Act respectively. The conditions imposed by the Ld. CIT(E) substantially provide that though the registration/approval is being granted pursuant to the judgment of the Hon'ble Bombay High Court in the case of **Chamber of Tax Consultants vs. Commissioner of Income Tax (Exemption)**, (supra) the consequential benefits shall remain subject to the outcome of the proposed Special Leave Petition before the Hon'ble Supreme Court. On careful consideration of the statutory provisions and the judicial precedents relied upon before us, we find considerable force in the submissions advanced by the Ld. AR. The scheme of section 12AB of the Act does not confer any express power upon the Ld. CIT(E) to impose independent conditions while granting registration to a charitable trust, except to the extent specifically contemplated under the Act. The

power of cancellation or withdrawal of registration is separately governed by the provisions of section 12AB(4) and section 12AB(5) of the Act, which empower the authority to cancel the registration upon occurrence of specified violations or non-genuine activities. Therefore, once the assessee satisfies the conditions prescribed under the statute for grant of registration, the Ld. CIT(E) cannot travel beyond the scope of the Act and impose precautionary or contingent conditions based upon a possible future outcome of litigation before a higher judicial forum. We respectfully follow the decision of the Coordinate Bench of ITAT, Mumbai in the case of **Chamber of Indian Charitable Trust** (supra) wherein it has been categorically held that neither section 12AB nor Rule 17A empowers the Ld. CIT(E) to impose conditions while granting registration. The Coordinate Bench further held that the prescribed Form No.10AC cannot enlarge or expand the scope of the substantive statutory provision enacted by the Legislature. We further find support from the decision of the Coordinate Bench in the case of **Bai Navajbai Tata Zoroastrian Girls School** (supra) wherein it was held that conditions imposed while granting registration, relating to future conduct of the trust or circumstances for cancellation, are merely advisory in nature and cannot be construed as legally enforceable conditions since the field is already occupied by specific statutory provisions.

9. In the present case, the registration and approval have admittedly been granted by the Ld. CIT(E). Therefore, once registration under section 12AB and approval under section 80G have been granted, the consequential benefits flowing there from cannot be kept in a suspended or conditional state merely because the revenue proposes to challenge the judgment of the Hon'ble

Jurisdictional High Court before the Hon'ble Supreme Court. So long as the judgment of the Hon'ble Bombay High Court continues to hold the field, the authorities functioning within the jurisdiction of the Hon'ble Bombay High Court are duty bound to follow the same in letter and spirit.

10. We also find merit in the submissions of the Ld. AR that the impugned conditions are adversely affecting the day-to-day functioning of the assessee trust and creating uncertainty in relation to its charitable activities, donor confidence and statutory compliances. Such conditions, which are not contemplated under the statute, cannot be permitted to continue. At the same time, we clarify that the registration granted under section 12AB and approval granted under section 80G are not perpetual or lifelong registrations. Under the prevailing statutory scheme, such registrations are granted only for the prescribed period of five years and remain subject to renewal in accordance with law. Therefore, adequate safeguards are already available with the revenue authorities under the Act itself in the event of any future violation, non-genuine activity or any change in the legal position arising from a judicial pronouncement of a higher forum. Hence, imposition of additional contingent conditions by the Ld. CIT(E) was wholly unnecessary and beyond jurisdiction.

11. In view of the aforesaid facts and respectfully following the judicial precedents discussed hereinabove, we direct the Ld. CIT(E) to delete/vacate the impugned conditions imposed while granting registration under section 12AB and approval under section 80G of the Act. Accordingly, **ITA No.4489/Mum/2026** and **ITA No.4490/Mum/2026** filed by the assessee stand allowed.

12. Since the registration under section 12AB and approval under section 80G have already been granted by the Ld. CIT(E) vide order dated 04.04.2026, though conditionally, the appeals being ITA No.4491/Mum/2026 and ITA No.4488/Mum/2026 challenging the earlier rejection orders have become merely academic and infructuous. Accordingly, the said appeals are dismissed as infructuous.

13. In the net result, ITA No.4489/Mum/2026 and ITA No.4490/Mum/2026 filed by the assessee are allowed, whereas ITA No.4491/Mum/2026 and ITA No.4488/Mum/2026 are dismissed as infructuous.

Order pronounced in the open court on 15<sup>th</sup> day of May 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 15/05/2026  
SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI