

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s). 311/PAT/2026
Assessment Year(s) 2027-28**

Vidya Vihar Educational Trust (Appellant)	Vs.	ACIT (Exemption), Patna (Respondent)
PAN: AAATV9570E		

Appearances:

Assessee represented by : Ravi Sah, CA.

Department represented by : Bharat Bhusan Garg, CIT, DR.

Date of concluding the hearing : 08.07.2026

Date of pronouncing the order : 10.08.2026

ORDER

PER PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER:

This appeal filed by the assessee is against the order of the CIT Exemption, Patna [hereinafter referred to as Ld. 'CIT(E)'] passed in respect of registration u/s 12AB of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2027-28 dated 28.03.2026.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. For that the Ld. CIT (Exemption) erred on facts and in law in concluding that in terms of Clause -'7' (Dissolution Clause) of the Trust Deed - the Trust Property is not irrevocably and exclusively dedicated to charitable Purpose and therefore the Trust does not meet the requirements for grant of registration in terms of Sec. 12AB of the Act. Sec. 12AB provides only two conditions for the purpose of grant of registration -i) Objects should be charitable and, ii) the activity should be genuine. It conditions never include

within its ambit the future application of assets in the event of dissolution of trust which will always be a very remote and almost impossible event.

2. For that the Ld. CIT(Exemption) erred in law in concluding that in the event of dissolution of the Trust- the Trust Properties may be diverted to Objects than the that for which the same was bequeathed/ to institutions other than charitable institutions. This conclusion of the CIT (Exemption) is against the doctrine of Cy-pres which does not permit the distribution of assets for wholly unrelated objects, Personal enrichment of the trustees and, Return of assets to settlor's heir in case of public trust.

3. For that the Ld. CIT (Exemption) erred on facts and in law in understanding the scheme of the Act which already takes care of interest of revenue in the event of occurrence of such remote and impossible event of non charitable application of trust assets through Sec. 13, 115TD(1)(c) and 115BBC of the Act.

4. For that the Lr. CIT (Exemption) completely misunderstood Clause-'7' of the Trust Deed to be a devise for the reversion of assets to the entity under the control of majority of the trustee does not ensuring independent charitable application of such assets.

5. For that the CIT (Exemption) erred on facts and in law in concluding that the foundational document i.e., the trust deed permits the application of Income or assets in a manner not strictly confined to charitable purposes."

3. Brief facts of the case are that the assessee had filed an application in Form No. 10AB on 29.09.2025 seeking the grant of regular registration u/s 12A(1)(ac)(ii) of the Act. During the course of the registration proceedings, the Ld. CIT(E) examined the Trust deed and observed that the dissolution clause (Clause 7) permitted the transfer of the Trust's assets upon dissolution to another Trust, Society, or Institution founded by the majority of the trustees of the present Trust. However, the Ld. CIT(E) held that this formulation did not conclusively restrict the transfer of assets strictly to independent charitable institutions registered u/s 12A/12AB of the Act, thereby failed to ensure that the assets of the Trust remained permanently and irrevocably dedicated to charitable purposes. Accordingly, the Ld. CIT(E)

rejected the application for registration u/s 12AB of the Act of the assessee and held as under:

"8. It is also noted that the applicant has assured to submit a modified instrument incorporating the necessary amendments, duly registered with the competent authority, within a period of three months. However, such assurance cannot be acted upon at this stage, as the statutory requirement mandates compliance on the date of consideration of the application. The applicant is, therefore, at liberty to file a fresh application in accordance with law after effecting appropriate amendments in the trust deed, whereby the existing contrary provisions are removed or suitably modified, and legally compliant provisions are incorporated ensuring independent and irrevocable application of the trust assets for charitable purposes."

4. Aggrieved with the order of the Ld. CIT(E), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that the assessee is involved in charitable activities and the first registration was granted by the CIT Bhagalpur. The assessee had applied for renewal which was refused as the dissolution clause was not properly worded according to the Ld. CIT(E). It was submitted that u/s 12AB of the Act, for grant of approval, the conditions are specified and the same relate to the genuineness of the activity and complies with the right law. It was stated that the dissolution deed was in the process of being filed.

6. The Ld. DR drew our attention to para 8 of the order and stated that the assessee had assured the Ld. CIT(E) that the modified deed would be filed but the assessee did not file the fresh application along with the required documents.

7. We have considered the same and we note that in the paper book filed at page A22 there is a mention of irrevocability clause and also at page A17 and page A9 and A7. The Bench was of the view that since the



required irrevocability clause could be inferred from the deed there was no justification for rejecting the application. Therefore, the order of Ld. CIT(E) is hereby set aside and the issue is remanded before him to peruse the deed of the Trust. The assessee is also directed to highlight the required details as appearing in the deed and / or file the modified deed which shall be considered for grant of approval by the Ld. CIT(E) as per law. Hence, the grounds of appeal raised by the assessee are partly allowed for statistical purposes.

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

Order pronounced in the open Court on 10th August, 2026.

Sd/-

[Rakesh Mishra]
Accountant Member

Sd/-

[Pradip Kumar Choubey]
Judicial Member

Dated: 10.08.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

- 1. Vidya Vihar Educational Trust, IDBI Bank Campus, Navratan Hata, NH-31, Purnea, Bihar, 854301.**
- 2. ACIT (Exemption), Patna, Office of the CIT (Exemption), Patna, Central Revenue Building, Birchand Patel Path, Patna, Bihar, 852113.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata