आयकर अपीलीय अधिकरण, हैदराबाद पीठें, हैदराबाद

INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES, HYDERABAD

BENCH: A

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA 1208/HYD/2025 (निर्धारण वर्ष/Assessment Year: **2026-27**)		
SS EARLY LEARNING SOCIETY C/O KATRAPATI & ASSOCIATES, 1-1-298/2/B/3, SOWBHAGYA AVENUE APTS, 1ST FLOOR, ASHOK NAGAR, STREET NO.1,, HYDERABAD-500020, TELANGANA	Vs.	CIT (EXEMPTION) O/O COMMISSIONER OF INCOME TAX (EXEMPTION) HYDERABAD-, TELANGANA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		ABFAS4385P
अपीलार्थी द्वारा/Appellant represented by:		Mr. K A Sai Prasad, CA
प्रत्यर्थी द्वारा/Respondent represented by:		Mrs.Seema Meena, CIT DR

सुनवाई की तारीख / Date of conclusion of hearing:	16-Sep-2026
घोषणा की तारीख / Date of pronouncement:	16-Oct-2026

आदेश / ORDER

PER MANJUNATHA.G, AM:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Exemptions), Hyderabad, dated 26.06.2025, and pertains to assessment year 2026-27.

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2. The assessee has raised the following grounds of appeal:

> 1. The order dated 26.06.2025 passed under Section 12AB by the Commissioner of Income Tax (Exemptions), Hyderabad, rejecting the appellant trust's renewal application for registration under Section 12A(1)(ac)(ii) of the Income Tax Act, is unjustified.
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> 2. The Ld. CIT(Exemptions) erred in law and on facts in rejecting the Appellant's application in Form 10AB for registration under Section 12AB, ignoring the fact that the Appellant is solely engaged in the advancement of education, a recognized charitable purpose under Section 2(15) of the Act.
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> 3. The Ld. CIT (Exemptions) failed to appreciate that the Appellant's activities squarely fall within the definition of "charitable purpose" under Section 2(15) of the Income Tax Act, 1961, being advancement of education, and not General Public Utility (GPU), and therefore the restrictive proviso to Section 2(15) is not applicable
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> 4. The Ld. CIT (Exemptions) grossly erred in drawing adverse inference merely on the basis of quantum of fees charged or surplus generated, without considering the well-settled principle that mere surplus does not negate the charitable character, especially when the surplus is generated in the course of providing education in pursuance of objects and wholly applied or accumulated for educational objects.
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> 5. The Ld. CIT(Exemptions) failed to appreciate that the fees collected by the Appellant were reasonable and commensurate with the facilities provided, and the institution does not exist for profit but for the sole purpose of promoting education among children, irrespective of caste, creed, or religion.
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> 6. The Ld. CIT(Exemptions) erred in law in refusing to entertain the Appellant's application as "belated" without considering or disposing of the condonation request dated 10.06.2025 duly filed explaining delay due to medical exigencies, thereby violating the principles of natural justice.
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> 7. The Ld. CIT(Exemptions) failed to point out any violation of Section 13(1)(c), nor any diversion of funds to related parties, nor any finding that the Appellant's activities lacked genuineness, which are mandatory conditions for rejection under Section 12AB(1)(b).
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> 8. The appellant craves leave to add, amend, modify, rescind, supplement or alter any or more grounds of appeal stated herein above either before or at the time of hearing of this appeal.

3. The brief facts of the case are that the assessee is a society registered under the Telangana Societies Registration Act, 2001 and engaged in the activity of promotion of education and operating Kindergarten School

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imparting foundation learning to children under the name & style of 'SS Early Learning Society'. The assessee was granted provisional registration u/s.12A(1)(ac)(vi) of the Income Tax Act, 1961 [in short "the Act"] vide order in Form 10AC dated 27.05.2021 for AYs 2021-22 to 2023-24. Thereafter, the assessee applied for final registration on 31.03.2022 in accordance with the relevant provisions and registration was granted u/s.12AB of the Act vide order in Form 10AD dated 17.09.2022 for AYs 2021-22 to 2025-26. Subsequently, the assessee submitted application for renewal of registration in Form 10AB on 08.11.2024 u/s.12A(1)(ac)(ii) of the Act within the prescribed time-limit.

4. During the course of appellate proceedings before the Ld.CIT(E), in response to various notices issued by the Ld.CIT(E), the assessee submitted detailed Written Submissions along with supporting documents, including note on activities, audited financial statement, and explanation on compliance with the requirements of Section 2(15) of the Act. The Ld.CIT(E) after considering relevant submissions of the assessee and also taken note of application filed in Form 10AB dated 08.11.2024 rejected application filed by the assessee on the ground that the activities of the Society can't be held as charitable in nature as defined in Sec.2(15) of the Act. The Ld.CIT(E) further noticed that the assessee Society charged exorbitant fees for different class groups ranges from Rs.2,10,000/- to Rs.3,50,000/- per annum and from the above, it is clear that the activities of the society are not in accordance with the objectives mentioned in the Deed. The society is running a School with a motive of making profit and not imparting education

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for general public at large. The Ld.CIT(E) further noted that from the financials of the society for AY 2024-25, it is observed that the assessee society has made a surplus of Rs.1,34,24,945/- out of total receipt of Rs.3,45,93,501/-, which means, the society is generating more than 15 to 20% surplus and thus, can't be treated as a charitable organization. Further, for the assessment year under consideration, the assessee society is generating surplus of more than 30%. Therefore, observed that the assessee is existing not for charitable purpose but solely existing for profit motive and accordingly, rejected application filed by the assessee in Form 10AB on 08.11.2024.

5. Aggrieved by the order of the Ld.CIT(E), the assessee is now in appeal before this Tribunal.

6. The Ld. Counsel for the assessee, Mr. K A Sai Prasad, CA, submitted that the Ld.CIT(E) is erred in rejecting application filed by the assessee society in Form 10AB on 08.11.2024 only on the ground of charging exorbitant fees and making surplus, but has not made out any case of non-genuine activities carried out by the assessee society or activities carried out by the assessee society are not charitable in nature. The Ld. Counsel for the assessee further submitted that the assessee society was registered u/s.12A of the Act and also granted permanent registration u/s.12AB of the Act after examining the relevant records and objects of the society. Further, at the time of filing of application for renewal and at the time of filing application for provisional registration, the activities of the assessee society

are one and the same and there is no change in objects & activities. The Ld.CIT(E) without considering relevant details simply rejected the application filed on the ground that assessee society is charging exorbitant fees and also made more than 15 to 20% of surplus. But, fact remains that once the activities of the assessee society are carried out in accordance with its main objects, then merely for the reason of making profit or surplus, registration u/s.12AB of the Act can't be denied. In this regard, he relied upon the decision of the Hon'ble Supreme Court in the case of New Noble Educational Society v. CIT & Anr. reported in [2002] 448 ITR 594 (SC). He also relied upon the decision of the Hon'ble Madras High Court in the case of Malco Vidyalaya Matriculation Higher Secondary School v. Chef CIT reported in [2019] 103 taxmann.com 104.

7. The Ld.CIT-DR for the Revenue, on the other hand, supporting the order of the Ld.CIT(E) submitted that the activities of the assessee society are not charitable in nature going by the financials of the assessee society, because the society is charging exorbitant fees ranging from Rs.2,10,000/- to Rs.3,50,000/- per annum for kindergarten education. The assessee society is also making huge surplus in excess of 15 to 20% tolerance limit fixed by various Courts in particular for AY 2024-25, the surplus of the society is about 38% and from the above, it can be said that the society is solely existing for profit motive, but not for imparting education. Therefore, she submitted that the order of the Ld.CIT(E) should be upheld.

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8. We have heard both the parties, perused the materials available on record and had gone through orders of the authorities below. We have also carefully considered relevant reasons given by the Ld.CIT(E) for rejecting the application filed by the society in Form 10AB for renewal of registration u/s.12AB of the Act in the light of various averments of the Ld. Counsel for the assessee. There is no dispute with regard to the fact that the assessee society is registered under the Telangana Societies Registration Act, 2001 and also engaged in the activity of imparting education which is evident from relevant aims & objects of the society as per the Memorandum of Association (MoA), where the society is engaged in providing Elementary Education by establishing Kindergarten Primary, Secondary & Higher Secondary Education. It is also not in dispute that assessee society is running a Kindergarten School under the name & style of 'SS Early Learning Society'. In fact, the Ld.CIT(E) never disputed the fact that the aims & objects of the society are charitable in nature and further, assessee society is carrying out its activities in accordance with its aims & objects. But rejected the application filed by the assessee society in Form 10AB on 08.11.2024 only for the reason that the assessee society is charging exorbitant fees for pre-school class groups and also generating surplus of more than 15 to 20% and therefore, can't be considered as a charitable institution for registration u/s.12AB of the Act. The Ld.CIT(E) also took support from the decision of the Hon'ble Madras High Court in the case of Malco Vidyalaya Matriculation Higher Secondary School v. Chef CIT (supra). Therefore, it is necessary for us to examine the reasons given by the the

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Ld.CIT(E) in light of aims & objects of the society and activities carried out for the assessment year under consideration and also the financial statement of the assessee society filed for relevant assessment year.

9. Admittedly, the assessee is charging fees ranging from Rs.2,10,000/- to Rs.3,50,000/- for different classes of students starting from Nursery to PP-1, PP-2. It is also not in dispute that for AY 2024-25, the assessee has generated excess of income over expenditure of Rs.1,34,24,945/- on a gross-receipt of Rs.3,45,93,501/- as per income and expenditure account for the year ended 31.03.2024. From the above information, the Ld.CIT(E) came to conclusion that the assessee society is existing for a profit motive but not imparting education for general public at large and therefore, the society activities can't be held as charitable as defined u/s.2(15) of the Act and accordingly, the application filed in Form 10AB seeking registration u/s.12AB of the Act has been rejected.

10. We have gone through the relevant financials which are available in Paper Book filed by the assessee and upon perusal of the relevant statement of income for AY 2024-25, the assessee has reported excess of income over expenditure of Rs.1,34,24,945/-, whereas computed application of income and accumulation of income at Rs.56,04,909/- after considering amount applied for education purpose, etc. Further, the assessee had also generated surplus for earlier assessment years, however, no part of the surplus funds of the Society has been diverted to any other purpose, including benefit to the Members so as to say that the assessee society

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activities are not genuine and activities carried out by the society are not charitable in nature. In our considered view, from the fees charged by the society or surplus generated in a particular year, it can't be ascertained as to whether the society is carrying out its activities in accordance with its aims & objectives or not and what is to be seen is the main aims & objectives of the society and its activities carried out for the relevant period. In the present case, there is no dispute whatsoever with regard to aims & objectives of the society which are charitable in nature and further, the activities carried out by the society are in accordance with its aims & objectives and therefore, merely for the reason charging exorbitant fees are generating surplus in excess of 15 to 20%, assessee society can't be considered as a non-charitable Institution and rejected the application filed in Form 10AB for registration u/s.12AB of the Act. This principle is supported by the decision of the Hon'ble Supreme Court in the case of New Noble Educational Society (supra) where in Para No.63, it was held that, if the profits or surplus are generated in the hands of the assessee society in imparting of education or related activities disproportionate weight ought not be given to surpluses or profits, provided they are incidental. Further, at the stage of registration or approval, therefore, focus is on the activity and not the proportion of income. If the income generating activity is intrinsically part of education, the Commissioner or other authority may not on that basis alone reject the application. Similar view has been taken by the Hon'ble Supreme Court in the case of Queen's Educational Society v. CIT reported in [2015] 55 taxmann.com 255 (SC), where it has been clearly

held that where a surplus made by Educational Institution which was ploughed back for educational purposes, such Institution was held to be existed solely for educational purpose and not for the purpose of profit. Even in the decision of the Hon'ble Madras High Court in the case of Malco Vidyalaya Matriculation Higher Secondary School (supra), considered by the Ld.CIT(E) in support of her contention also laid down a ratio and held that where the assessee society running a Higher Secondary School claimed exemption u/s.10(23C)(vi) of the Act, in view of the fact that the assessee was not carrying out any other activity apart from imparting education and moreover, surplus generated had been utilized for school development purposes claims so raised by the assessee was to be allowed. The sum and substance of ratio laid down by the Hon'ble Supreme Court and the Hon'ble Madras High Court, is that merely for the reason of generating surplus it can't be held that the activities carried out by an Institution or Society is not charitable in nature and what is to be seen is dominant objects and activities. In the present case, going by the facts available on record, we find that the assessee society is imparting education by establishing Kindergarten School and also carried out its activities in accordance with its aims & objectives. Therefore, in our considered view, the Ld.CIT(E) was erred in rejecting application filed by the assessee in Form 10AB for registration u/s.12AB of the Act.

11. In so far as arguments of the Ld.CIT-DR that the application filed by the assessee society is belated and barred by limitation and also the Ld.CIT(E) has rejected the application on the ground of limitation, but going

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by the order passed by the Ld.CIT(E), the Ld.CIT(E) has not specifically discussed the issue of limitation in filing application for renewal of registration u/s.12AB of the Act. In any case, the assessee society has filed petition for condonation of delay explaining the reasons for delay in filing application. In our considered view, going by the reasons explained by the assessee, the delay in filing of application in Form 10AB needs to be condoned. Therefore, we direct the Ld.CIT(E) to condone the delay in filing of application and grant registration u/s.12AB of the Act as per application filed by the assessee in Form 10AB.

12. In the result, appeal filed by the assessee allowed.

Order pronounced in the open court on 16th October, 2026

Sd/-	**Sd/-**
VIJAY PAL RAO	**MANJUNATHA G**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Hyderabad
Dated: 16th October, 2026
TLN

Copy to:

1	SS EARLY LEARNING SOCIETY, C/O KATRAPATI & ASSOCIATES, 1-1-298/2/B/3, SOWBHAGYA AVENUE APTS, 1ST FLOOR, ASHOK NAGAR, STREET NO.1, HYDERABAD-500020, TELANGANA
2	CIT (EXEMPTION), O/O COMMISSIONER OF INCOME TAX (EXEMPTION), HYDERABAD, TELANGANA
3	THE PCIT / CIT, HYDERABAD
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