



2026:DHC:8498



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Order reserved on: **28.09.2026**
Order delivered on: **29.09.2026**

CNR No. DLHC010483132025

+ EX.P. 66/2025, EX.APPL.(OS) 1474/2025, EX.APPL.(OS) 1542/2025,
EX.APPL.(OS) 299/2026, EX.APPL.(OS) 387/2026, EX.APPL.(OS)
1375/2026 & EX.APPL.(OS) 1386/2026

HAMMAD AHMED

.....Decree Holder

versus

ABDUL MAJEED & ORS.

.... Judgement Debtors

Advocates who appeared in this case:

For the Decree Holder: Mr. Akhil Sibal, Senior Advocate with
Mr. Ankur Mahindro, Mr. Aslam Khan,
Mr. Rohan Taneja, Mr. Mohit Dagar, Mr.
Ankush Satija, Ms. Ridhie Bajaj, Ms.
Creasha Shastri, Mr. Raghav Kalra, Mr.
Deepak Chauhan, Mr. Jhaniak Setia and
Mr. Akshit Sharma, Advocates.

For the Judgement Debtors: Mr. Sanjeev Sindhvani, Senior Advocate
with Ms. Shalini Kapoor, Mr. Simran
Mehta, Ms. Divyanshi Saxena and Mr.
Udit B., Advocates for D-1 and 2.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

TUSHAR RAO GEDELA, J.

**EX. APPL. (OS) 1201/2026 (Under Section 151 r/w Section 47 and Order
XXI of CPC seeking appointment of an independent/neutral statutory
auditor)**

1. The instant application has been filed seeking the following reliefs:

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EX.P. 66/2025



- A) *Declaring the appointment of Ellahi Goyal & Co. as statutory auditor of Hamdard Laboratories India as illegal;*
- B) *Pass an ad-interim Order restraining Ellahi Goyal & Co. from performing any role in the capacity of the statutory auditor of Hamdard Laboratories India including but not limited to making any filing pertaining to the statutory compliances of Hamdard Laboratories India;*
- C) *Appointment of an independent/neutral statutory auditor of Hamdard Laboratories India for the following purposes:*
- i. *To undertake and complete all statutory compliances as required under the Income Tax provisions;*
 - ii. *To prepare consolidated balance sheets on the basis of balance sheets and information provided by the Medicine as well as Foods division of Hamdard Laboratories India and the common pool assets of Hamdard Laboratories India;*
 - iii. *To conduct the statutory audit and thereafter facilitate the submission of the Income Tax returns through the Login ID and Password of the Income Tax portal provided by the Judgment Debtor Nos. 1 and 2;*
 - iv. *To prepare and submit corrected Form 10AB in compliance with the Deed of Family Settlement dated 22.10.2019, Decree of the Court dated 13.12.2019 and the balance sheets of Hamdard Laboratories India;*
 - v. *To carry out all allied activities vested with the Statutory Auditor of any entity as per law;*
- D) *An order directing the Judgment Debtor Nos. 1 and 2, their agents, representatives, employees and/or any person acting on their behalf to hand over and provide all requisite records, books of accounts, financial statements, vouchers and documents of HLI to such independent/neutral statutory auditor as may be appointed by this Hon'ble Court;*
- E) *Ad interim orders in terms of the prayers above;*
- F) *Such further order or orders as this Hon'ble Court deems fit and appropriate."*

2. A brief factual narration of the events leading to the current application is as follows:

- 2.1. The Parties herein, had entered into a Family Settlement Deed dated 13.12.2019 (hereinafter referred as 'FSD') which was decreed vide order dated 13.12.2019 in CS (OS) No. 211/2017.
- 2.2. As per the terms of the FSD, the affairs of Hamdard Laboratories India (hereinafter referred as 'HLI') would be managed by two separate charitable trusts, Hamdard Laboratories (Trust)



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(hereinafter referred as '*HLT*') and Hamdard Foods India (hereinafter referred as '*HFI*') whose settlors would be Mr. Abdul Majeed and Mr. Hamid Ahmed, respectively. Therefore, HFI came to be under the management of the Decree Holder (hereinafter referred as '*DH*') and Judgement Debtor No. 3 (hereinafter referred as '*JD no.3*') and Judgement Debtor No. 4 (hereinafter referred as '*JD no.4*'), while HLT came to be under the management of Judgement Debtor No. 1 (hereinafter referred as '*JD no.1*') and Judgement Debtor No. 2 (hereinafter referred as '*JD no.2*'). HLT would exclusively manage the medicines, pharmaceuticals, drugs and cosmetics business of HLI, while HFI will exclusively manage the Food Products business of HLI. The same would be done by HLT and HFI in the role of trustees of HLI.

- 2.3. Clauses 5 and 6 of the FSD mandates that the charitable mandate of, *inter alia*, HLI shall be preserved and a provision to that effect would be specifically included by the Parties in Trust Deeds of the Recipient Trusts.
- 2.4. HLI is a tax-exempt entity under the Income Tax Act, 1961, and is required to have its registration renewed every 5 years by the submission of Form 10AB. The registration of HLI was last approved on 07.04.2022 being valid till 31.03.2026. As per Section 12A(ac) of the Income Tax Act, 1961, the deadline for application of renewal of registration was 30.09.2025, i.e. 6 months before the date of expiry.



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- 2.5. JD nos.1 and 2 filed Form 10AB for the renewal of HLI's registration on 30.09.2025, as alleged by the DH, in violation of the FSD and in connivance with the common tax consultant.
- 2.6. JD no.3 issued a letter dated 15.10.2025 to the Commissioner of Income Tax (Exemption) (hereinafter referred as 'CIT'), pointing out the errors in the Form 10AB. The CIT directed HLI to correct the said Form 10AB vide intimation dated 21.02.2026.
- 2.7. JD nos.1 and 2 requested for the withdrawal of Form 10AB on 25.03.2026. The CIT, vide order dated 30.03.2026, rejected the Form 10AB dated 30.09.2025 with the liberty to refile.
- 2.8. JD nos.1 and 2 challenged the order dated 30.03.2026 in an appeal before the ITAT, which came to be dismissed vide order dated 20.07.2026.
- 2.9. JD nos.1 and 2 again filed Form 10AB on 31.03.2026, allegedly in violation of the FSD. The DH filed its objection to the same on 03.08.2026. Thereafter, the CIT sent a notice dated 31.08.2026 to HLI, for showing cause why the Form 10AB dated 31.03.2026 should not be rejected. HLI replied to the same vide letter dated 07.09.2026.
- 2.10. While the process of filing Form 10AB was ongoing, the auditor, Agarwal & Saxena were replaced by Ellahi & Goyal after issuing a no objection certificate dated 02.12.2025. Agarwal & Saxena continued with the audit proceedings pursuant to the order dated 05.12.2025 for the limited purpose of filing Income Tax Return for the financial year 2024-25.



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- 2.11. JD nos.1 and 2 also filed a complaint dated 13.03.2026 against Agarwal & Saxena with the Institute of Chartered Accountants of India for professional misconduct.
- 2.12. In the aforesaid circumstances, the present application has been filed.

CONTENTIONS OF THE DECREE HOLDER:

3. Mr. Akhil Sibal, learned senior counsel for the DH contended as under:
- 3.1. Learned senior counsel for the DH took the Court through the Consent Decree dated 13.12.2019, particularly to Clauses 5, 6 and 18, to contend that though the JD nos.1 and 2 were cooperating with the DH in filing audit reports in Form 10B, however while filing Form 10AB for exemption, the JD nos.1 and 2 did not seek any participation of the DH which has endangered the tax exemption granted to HLI which the parties were bound to in terms of Clause 6 of the FSD.
- 3.2. He would contend that till date the audited financials were being compiled and filed jointly including the appointment of the Chartered Accountant (CA). Learned senior counsel would submit that the present application has been necessitated on two counts, in that, (i) a unilateral filing of Form 10AB by JD nos.1 and 2 without consent of DH; and (ii) the auditor was also appointed unilaterally by JD nos.1 and 2 without consulting DH. According to him, these two issues are intrinsically intertwined with Clauses 6 and 18 of the FSD which are sought to be executed in the present application.
- 3.3. The learned senior counsel would submit that this lapse was discovered from the Income Tax Portal by the DH, which



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prompted the present application. He would state that Form 10AB, without consultation with the DH, was filed by the JD nos.1 and 2 before the IT Authorities. Having gained the knowledge of such unilateral filing, the DH upon finding glaring discrepancies, filed objections before the IT Authorities. He would state that post-consideration, IT Authorities refused to accept the Form 10AB and directed JD nos.1 and 2 to file a revised Form. However, since correction of the existing form was not permissible, JD nos.1 and 2 was permitted to file afresh.

- 3.4. He contended that subsequently JD nos.1 and 2 did file the Form 10AB by concealing the same from DH, however, containing the very same irregularities and illegalities which were subject matter of the previous Form 10AB. Apprehending that tax exemption may be denied to HLI, the present application seeking appropriate directions has been filed. He would pray that a direction for joint filing be passed, keeping the objections of the JD nos.1 and 2 open to be decided by this Court at a later stage.
- 3.5. He relied upon orders of this Court passed on 10.11.2025 and 05.12.2025 to state that similar orders in respect of the prayers as sought today were passed on previous occasions too.
- 3.6. Handing over the Bench a convenience compilation containing documents on record, learned senior counsel sought to substantiate that the balance sheets on previous occasions were jointly signed, which amply demonstrated that both parties were unambiguously clear of the terms of FSD, particularly Clause 6 read with Clause 16 and 18.



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- 3.7. Referring to Form 10AB dated 30.03.2026 submitted by JD nos.1 and 2, learned senior counsel would insist that Form 10AB was rejected as withdrawn considering that there was a mismatch in properties mentioned in the audited accounts as on 31.03.2025 in comparison to those in Form 10AB. Learned senior counsel also referred to the Form 10AB which was annexed and submitted to the IT Authorities to demonstrate certain discrepancies in relation to the properties which were supposed to have been segregated in terms of the FSD. He would contend that while the DH asserted segregation, the JD nos.1 and 2 denied any such segregation or hiving of the properties as per FSD.
- 3.8. He would vehemently contend that by the unilateral procedure adopted by the JD nos.1 and 2, not only of appointment of the Chartered Accountant but also submission of Form 10AB would surely endanger the tax exemption granted to HLI which both the parties were bound to hold as sacrosanct in terms of Clause 6 of the FSD. He would contend that as prayed for by the DH, an independent auditor may be appointed by this Court, who may be directed to submit Form 10AB after joint consultation with both the parties and after evaluating the relevant financial records of both HFI and HLI.
- 3.9. Learned senior counsel for the DH has further relied on the following judgements regarding maintainability of the present execution petition:

a. Rajesh Sanei and Others vs. Ravi Sanei; 2026 SCC OnLine Cal 9917



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- b. Ravi Sanei vs. Rajesh Sanei and Others; 2024 SCC OnLine Cal 1934*
- c. M/s Sky One Corporate Park LLP & Ors. vs. Shobha Rasiklal Dhariwal & Anr., in Arbitration Petition No. 146/2024 dated 16.09.2025.*

CONTENTIONS FOR THE JUDGEMENT DEBTOR 1 & 2:

4. Mr. Sanjeev Sindhvani, learned senior counsel for the JD nos.1 and 2 would submit as under:

- 4.1. Mr. Sindhvani, learned senior counsel, at the outset stated that the contention of the DH that the instant application has to be urgently considered and decided and in all probability prior to 30.09.2026 is a bogey created having no substance. He would submit that Form 10B is a form of submission of audit report/return of a company while Form 10AB is in relation to information to be provided by the assessee to avail benefit of tax exemption. He would submit that both issues are separate and distinct from each other. He would submit that so far as Form 10B is concerned, the dead line for filing such submission is 30.09.2026, while for Form 10AB the submission has to be made once in five years which was already submitted on 30.09.2025.
- 4.2. Referring to Clause 6, learned senior counsel would submit that there is no specific direction contained therein which would render it executable. According to him, the only direction, if at all, in Clause 6 would be in respect of the parties creating a provision to the effect of what is contained in Clause 6, in the individual trust deeds. Thus, according to him, there is no



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direction other than the one mentioned above which can be sought execution of, by DH.

- 4.3. Referring to Clause 18, learned senior counsel would submit that the compliances required are purely in relation to the FY 2019-20 which already stand complied with. Even for the purpose of appointment of auditors/accountants, the same was in relation to the compliances required in Clause 18 for the FY 2019-20. He would submit that the language employed, clarified the said submission. So far as the physical vesting of assets and liabilities and segregation in terms of Annexure I of the FSD, directing that the same should be completed by the parties on or before 31.03.2020 is concerned, according to him, this still did not amount to a direction which would be enforceable in execution.
- 4.4. He asserted that there is no jointness between both the parties today and so far as the physical vesting of liabilities and segregation is concerned, an arbitrator has been appointed on the asking of the JD nos.1 and 2 in respect of disputes which have arisen between the parties in respect thereto. In this context, learned senior counsel would contend that the issue raised herein too is clearly arbitrable, arising out of the disputes in respect of segregation of properties which are subject matter of the arbitration. He would contend that a perusal of the Form 10AB and the contentions of the DH would clearly show the alignment between the two which can be resolved only by way of arbitration. Thus, the DH may approach the arbitrator for appropriate orders.



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- 4.5. Mr. Sindhwani, learned senior counsel handed over a compilation on behalf of the JD nos.1 and 2 and would refer to an e-mail dated 30.09.2025 to submit that contrary to the contentions of the DH, it is clear from the contents of the said e-mail that it is the JD nos.1 and 2 which have been seeking certain relevant and significant information in respect of the properties which were required to be segregated to be furnished to the JD nos.1 and 2 so as to enable it to file Form 10AB. He would submit that despite such request, DH never issued any response clarifying or giving information relatable to the queries raised by the JD nos.1 and 2.
- 4.6. That apart, learned senior counsel was at pains to take this Court through many documents relating to the notice issued by the Income Tax Department dated 31.08.2026 as also complaint filed by the JD nos.1 and 2 with the Income Tax Authorities of misconduct and allegations of corrupt practices by the erstwhile CA M/s Aggarwal and Saxena, apart from showing relevant paragraphs of Form 10AB filed on 30.09.2025 as also on 31.03.2026. In this context he also showed orders passed by various income tax authorities including the Income Tax Appellate Tribunal in order to substantiate his arguments.
- 4.7. He relied upon the following judgements:
- a. *Atul Chopra & Ors. vs. Technotree Corporation & Ors., MANU/DE/3008/2012*
 - b. *Ashutosh Infra Private Limited vs. Pebble Downtown India (P.) Ltd. & Ors, MANU/DE/9427/2025*
 - c. *Asma Lateef vs. Shabbir Ahmad & Ors., (2024) 4 SCC 696*



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d. Aslam Ismail Khan Deshmukh vs. Asap Fluids Pvt. Ltd. & Ors., (2025) 1 SCC 502

REJOINDER OF THE DECREE HOLDER:

5. Mr. Akhil Sibal, learned senior counsel for DH, in the rejoinder, contended as under:

- 5.1. In rejoinder, Mr. Sibal, learned senior counsel reiterated his earlier submissions. Additionally, he copiously read through, what according to him were relevant clauses of the FSD to substantiate that the Consent Decree, particularly Clause 6, cannot be read in isolation and has to be considered as forming part of other clauses of the Consent Decree to gauge and gather the intention sought to be conveyed in the said clause. According to him, if read so, it would be clear that it contains a direction which is clearly enforceable.
- 5.2. He also contended that while the DH asserts that segregation is complete, it is the JD nos.1 and 2 which have taken contradictory stands stating that segregation is not complete. Additionally, learned senior counsel referred to certain emails dated 15.12.2025, 06.12.2025 and pleadings filed by the JD nos.1 and 2 before the income tax authorities and the reply filed by JD nos.1 and 2 before this Court in answer to the Ex. Appl. (OS) 1201/2026. He would submit that such contradictory stands disclose the intention of the JD nos.1 and 2 to obstruct the smooth implementation of Clause 6 read with Clause 18 of the FSD.



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5.3. It is in this situation, that the DH is seeking appointment of an independent CA who may file Form 10AB after consulting and considering the financial statements of both HLI and HFI.

ANALYSIS AND CONCLUSIONS:

6. This Court has heard the arguments of Mr. Sibal learned senior counsel for the DH and Mr. Sindhwani, learned senior counsel for the JD nos.1 and 2 and perused the records.

7. At the outset, so far as the contention of the DH of urgent orders is concerned, it is noted that the Form 10AB which is in respect of tax exemption of HLI, has to be submitted by the assessee with the income tax authorities once in five years for the purposes of extension of such exemption. After having entered into the FSD and the passing of the Consent Decree, the HLI filed the Form 10AB on 30.09.2025. Thus, to the extent of submission or filing of Form 10AB is concerned, there is no urgency as claimed by the DH.

8. From perusal of the application, it appears that the entire emphasis and stress on the urgency of adjudication of the present application is predicated only on Form 10AB. In view of the aforesaid observation, this Court does not find any urgency of such nature for passing any direction as sought for in respect of Form 10AB.

9. That apart, the issue which appears to have cropped up in Form 10AB clearly relates to, according to the DH, mis-description or wrong description of the properties which are segregated or claimed to have been segregated under the FSD. While the DH claims properties have been segregated or hived off in terms of the FSD, JD nos.1 and 2 claim that such segregation has not taken place in reality in terms of the documents of registration etc. Learned senior counsel for JD nos.1 and 2 had also demonstrated to this Court in the two Form 10ABs filed by JD nos.1 and 2 and placed on record, coupled



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with the objections raised by the DH, that the dispute and issue in relation to the properties appears to be central to the entire gamut.

10. In this context, it would be worthwhile to consider and appreciate the order dated 30.03.2026 passed by the IT Authorities. The relevant para is extracted hereunder:

		GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT ITBA/EXM/F/EXM45/2025- 26/1088116229(1) CIT(EXEMPTION), DELHI	
To, HAMDARD LABORATORIES INDIA HAMDARD LABORATORIES INDIA 2 A/3, HAMDARD BUILDING ASAF ALI ROAD NEW DELHI 110002, Delhi India			
PAN: AAATH0842H	Application No: CIT(EXEMPTION), DELHI/2025- 26/12AA/30032	DIN & Notice No: ITBA/EXM/F/EXM45/2025- 26/1088116229(1)	Date: 30/03/2026
FORM NO. 10AD (See rule 2C or 11AA or 17A) Order for registration or approval or rejection or cancellation			
1.	Permanent Account Number (PAN) of the applicant	AAATH0842H	
2.	Name and address of the applicant	HAMDARD LABORATORIES INDIA HAMDARD LABORATORIES INDIA 2 A/3, HAMDARD BUILDING ASAF ALI ROAD, NEW DELHI 110002 Delhi, India	
2A.	Nature of activities	Charitable	
3.	Document Identification Number	ITBA/EXM/F/EXM45/2025-26/1088116229(1)	
4.	Application Number	CIT(EXEMPTION), DELHI/2025-26/12AA/30032	
5.	Registration/Approval Number (Unique Registration Number)	Not Applicable	
6.	Section/sub-section/clause/sub-clause/proviso in which registration/approval is being granted	Not Applicable	
7.	Date of registration/approval/registration/cancellation	30/03/2026	
8.	Assessment year or years for which the trust or institution is registered or approval	Not Applicable	
9.	Reasons of rejection/cancellation, in case if the application for registration/approval has been rejected or cancelled	As per annexure below.	
10.	Date of opportunity afforded to the applicant before such rejection or cancellation of application for registration/ approval	09/12/2025, 21/02/2026	
11. Order for registration/approval:		Not Applicable	
Note: If digitally signed, the date of digital signature may be taken as date of document. CIVIC CENTRE, MINTO ROAD, MINTO ROAD, NEW DELHI, NEW DELHI, Delhi, 110002 Email: DELHICIT.EMP@INCOMETAX.GOV.IN, Office Phone:011-23234643			
Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in * DIN- Document Identification No.			
12. Conditions subject to which registration/approval is being granted: Not Applicable			
13. Name and designation of the authority SHRI PRAKASH DUBEY CIT(EXEMPTION), DELHI			

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**ORDER u/s 12AB (1) (b) (ii) (B) OF THE INCOME TAX ACT, 1961**

The applicant has filed application in Form 10AB on dated 30.09.2025 for registration u/s 12A(1)(ac)(ii) of the Income Tax Act, 1961.

2. Thereafter a letter dated 15.10.2025 was filed which was signed by Sh. Hammad Ahmed, vide which it stated that some properties have been wrongly included in its Form 10AB, for which rectification of the Form is sought. Relevant part of the said letter is reproduced as under.

This is to inform you that information submitted by Hamdard Laboratories India (PAN AAATH0842H) in form 10AB vide Ack. No. 896888060300925 filed on 30th Sept 2025 needs to be rectified.

Out of List of the properties mentioned in Para 14 of Form 10AB, below mentioned properties does not belong to Hamdard Laboratories India and have been wrongly included in the Form 10AB filed under the digital signature of Mr. Asad Mueed (Trustee).

Sl. No.	Serial No. in Para 14 of Form 10AB	Address of Property
1	8	B-318, Okhla Industrial Area Phase-I, Delhi- 110020
2	12	B-318, Okhla Industrial Area Phase-I, Delhi-110020
3	13	Land at Taluq Paithan, Distt. Dhorkin, Aurangabad, Maharashtra-431105
4	14	Land at Gangapur, Aurangabad, Maharashtra-431109
5	15	Plot B-22/2, Shendra Industrial Area, Shendra, Aurangabad, Maharashtra-431154
6	16	Plot B-21/9, Shendra Industrial Area, Shendra, Aurangabad, Maharashtra-431154
7	22	Katra Dina Beg, Lal Kuan , Delhi-110006

8	34	Plot 108 and 121, IMT Manesar, Sector 1, Manesar, Haryana-122052
9	35	Flat No. 13, Mayur Vihar, New Delhi-110091
10	36	Flat No. 74, Mayur Vihar, New Delhi-110091
11	37	Patna Warehouse-C8A, W5, Kankar Bagh Road, Patna, Bihar-800020
12	38	Plot B-22/2, Shendra Industrial Area, Shendra, Aurangabad, Maharashtra-431105

11. Apart from the above, the show cause notice dated 31.08.2026 issued by the Income Tax Authorities raised objections in respect of discrepancies found in Form 10AB filed by the HLI, particularly in respect of properties

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which the authorities felt, were erroneously included. The said notice appears to be in consequence of the objections raised by the DH in respect of such properties. The said notice dated 31.08.2026 is extracted hereunder:

“The hearing for the above noted application no. has been fixed on 07/09/2026 at 04:07 PM in my office. In continuation with notice dated 16.05.2026, it is requested to file following details/documents in support of your application filed in form 10AB seeking registration/approval u/s 12A of the I.T. Act, 1961;

2. It is noticed that in your case earlier application for registration u/s 12A of the I.T. Act, 1961 was rejected vide order dated 30.03.2026, on the basis of discrepancies in Form No. 10AB, in respect of these properties. Further, vide letter dated 03.08.2026, you made a submission that the properties listed in Para 14 (Serial No. 3, 12, 13, 14, 15, 16, 33, 34, 35, 36) of Form No. 10AB do not belong to Hamdard Laboratories India and were erroneously included in Form No. 10AB. The said letter was filed by Hammad Ahmed (Chief Trustee). Such properties are tabulated as below:

Sl. No.	Serial No. in Para 14 of Form 10AB	Address of Property
1	3	B-318, Okhla Industrial Area Phase-I, Delhi-110020
2	12	B-318, Okhla Industrial Area Phase-I, Delhi-110020
3	13	Land at Taluka Paithan, Distt. Dhorkin, Aurangabad, Maharashtra-431105
4	14	Land at Gangapur, Aurangabad, Maharashtra-431109
5	15	Plot B-22/2, Shendra Industrial Area, Shendra, Aurangabad, Maharashtra-431154
6	16	Plot B-21/9, Shendra Industrial Area, Shendra, Aurangabad, Maharashtra-431154
7	33	Building Residential- Plot 108 and 121, IMT Manesar, Sector 1, Manesar, Haryana-122052
8	34	Patna Warehouse-C8A, WS, Kankar Bagh Road, Patna, Bihar-800020

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9	35	Plot B-22/2, Shendra Industrial Area, Shendra, Aurangabad, Maharashtra-431105
10	36	Agricultural land- Village Gunti, Tehsil Behror, Dist Alwar, Gunti, B.O. Behror, Alwar, Rajasthan-301701

12. Apparently, the DH has raised objections to Form 10AB in respect of the properties which were to be transferred to the DH, however, such transfer was pending at the end of the DH itself.

13. An issue which appears to be intrinsically connected with the aforesaid submissions and contentions are the orders dated 20.09.2022 and 29.05.2025 passed by this Court in OMP(I) 07/2022 and OMP (I) 09/2025 are extracted hereunder:

Order dated 20.09.2022

“1. The present petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”] has been filed for interim measures of protection in anticipation of arbitral proceedings under a document dated 22.10.2019 entitled “Deed of Family Settlement” [“FSD”]. The FSD is signed by petitioner Nos. 1 and 2 on the one hand [described therein as the “HLT Group”], and respondent Nos. 1 to 3 on the other hand [described therein as the “HFI Group”]. Petitioners are the sons of the deceased brother of respondent No. 1. Respondent Nos. 2 and 3 are the sons of respondent No. 1. An amendment to the FSD was signed by the parties thereto on 21.02.2020 which inter alia sought to make provisions for the manner in which the FSD was to be implemented.

xxx

8. In the course of hearing, it appears that the petitioners and respondent Nos. 1 to 3 are ad idem that the FSD requires to be fully implemented in letter and spirit. There is, however, some dispute between them as to the modalities for the implementation of the settlement. As far as the respondent No. 4 is concerned, Mr. Vasdev reiterates that the University remains bound by its resolution dated 03.07.2021 and the observations of the Division Bench in the order dated 22.11.2019 and will continue to cooperate with the other parties in the implementation of the FSD.



9. Learned Senior Counsel for the parties also submit that the petitioners and respondent Nos. 1 to 3 may, at this stage, be referred to arbitration in these proceedings itself, with liberty to seek interim measures of protection from the learned arbitrator. As far as the respondent No. 4 is concerned, it is not a party to the FSD but has, as noted above, assured the Court that it would facilitate its implementation in accordance with law and subject to the regulations by which it is bound.

xxx

13. In view of the aforesaid submissions of the parties, the petition is disposed of with the following directions: -

a. With the consent of learned counsel for the petitioners and the respondent Nos. 1, 2 and 3, the disputes between them under the FSD are referred to the arbitration of Hon'ble Mr. Justice Badar Durrez Ahmed,, former Chief Justice of the High Court of Jammu and Kashmir [Tel:-7042205786]. At Mr. Vasdev's request, at this stage the University is not made a party to the arbitral proceedings. However, it is open to the parties to make an application before the learned arbitrator in this regard, if so advised.

b. It is expected that the parties will cooperate with each other in the spirit of the FSD and the resolution of the University. Although the University is not being referred to the arbitration at this stage, Mr. Vasdev states that the University will facilitate the implementation of the directions given by the learned arbitrator in this regard.

c. With this objective, it is further directed as follows: -

i. The computation of the amounts due from the petitioners' group to respondent Nos. 1 to 3 in terms of Clause 25 of the FSD, read with Annexure V thereof, will be placed before the learned arbitrator within two weeks. The parties may seek necessary direction in this regard from the learned arbitrator, including for the amounts to be deposited with him in escrow.

ii. Mr. Vasdev states that the documents required to be issued by the University will be issued simultaneously upon deposit of the amount contemplated by Clause 25 of the FSD read with Annexure V therein by the petitioners.

iii. The petitioners will furnish quarterly accounts as directed in paragraph 12 above.



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iv. Mr. Nandrajog states that the respondent Nos. 1 to 3 have not interfered, at any stage, in the independent functioning of HIMSR under the MREC. He assures the Court that they will continue to cooperate with the petitioners in maintaining the independent status of HIMSR under the MREC and will not take any steps inconsistent therein.

d. The parties may make their respective claims under the FSD before the learned arbitrator. It is made clear that the parties may also approach the learned arbitrator for further directions under Section 17 of the Act. The directions given in this order are only intended to hold the field until the learned arbitrator has the opportunity to consider the matter and pass further directions, as may be required from time to time. The parties are at liberty to seek modification, variation, or vacation of the orders passed by this Court before the learned arbitrator.

e. Learned Senior Counsel for the parties state that the learned arbitrator may be requested to fix his own remuneration in accordance with law.”

Order dated 29.05.2025

“4. This is a petition filed under Section 9 of Arbitration and Conciliation Act, 1996 seeking the following reliefs:

“A. Restraining Respondents Nos. 1 & 2, from vesting any assets, or monies of HLI, in any third party, pending the proposed arbitral proceedings.

B. Restraining Respondents Nos. 1 & 2 from utilizing the accumulated surplus of HLI, except as expressly authorized by the statement of accumulation, furnished to the Income Tax Department [Document No. 11], pending the proposed arbitral proceedings.”

5. Mr. Sethi, learned Senior counsel for petitioner has drawn my attention to Para Nos.V, VI and VII of the Family Settlement Deed (FSD) dated 22.10.2019 which reads as under:-

“V. The Parties are all descended from Late Hakeem Hafiz Abdul Majeed Sahib, who passed away 22nd June, 1922, leaving behind his widow, Mst. Rabea Begum and his two sons, Hakeem Abdul Hameed Sahib and Hakeem Mohd. Said Sahib, who became the co-owners of the business.

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VI. On 28th August, 1948, Mst. Rabea Begum, Hakeem Abdul Hameed Sahib and Hakeem Mohd. Said Sahib dedicated the business of Hamdard Dawakhana [hereinafter referred to as "the Trust"], to charity, by executing a Trust Deed [hereinafter referred to as the 1948 Deed].

VII. Mst. Rabea Begum passed away on 5th October, 1949 and her rights in the Trust devolved upon Hakeem Abdul Hameed Sahib and Hakeem Mohd. Said Sahib in equal proportions."

xxx

11. My attention has been drawn to the order dated 20.09.2022 passed in O.M.P. (I) 7/2022, a petition under Section 9 of the Arbitration and Conciliation Act, 1996, between the same parties, wherein the Court made the following observations:-

"2. The FSD deals with various businesses, properties, and institutions run by the family including a charitable society called the Hamdard National Foundation (India) ["HNF"], which is the sponsoring body of the respondent No. 4- Jamia Hamdard (Deemed University) ["the University"]. Under the aegis of the University, the family runs a medical college by the name of Hamdard Institute of Medical Sciences & Research ["HIMSR"] as a "constituent institution".

3. The FSD deals elaborately with the division of businesses and institutions amongst the HLT Group and the HFI Group. For the present purposes, it is not necessary to set out the arrangements in detail, except to state that the FSD contemplates setting up of two committees for the management of HNF and its institutions. One committee namely the Hamdard Education and Cultural Aid Committee ["HECA"] is placed under the control of the HFI Group and the other committee, Medical Relief and Education Committee ["MREC"] is under the control of the HLT group. Very broadly speaking, the University was to be run as an autonomous institution funded by HECA whereas HIMSR was to be run as an institution under the MREC.

.....

8. In the course of hearing, it appears that the petitioners and respondent Nos. 1 to 3 are ad idem that the FSD requires to be fully implemented in letter and spirit. There is, however, some dispute between them as to the modalities for the implementation of the settlement. As far as the respondent No. 4 is concerned, Mr. Vasdev

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reiterates that the University remains bound by its resolution dated 03.07.2021 and the observations of the Division Bench in the order dated 22.11.2019 and will continue to cooperate with the other parties in the implementation of the FSD.

13. In view of the aforesaid submissions of the parties, the petition is disposed of with the following directions: -

a. With the consent of learned counsel for the petitioners and the respondent Nos. 1, 2 and 3, the disputes between them under the FSD are referred to the arbitration of Hon'ble Mr. Justice Badar Durrez Ahmed,, former Chief Justice of the High Court of Jammu and Kashmir [Tel:-7042205786]. At Mr. Vasdev's request, at this stage the University is not made a party to the arbitral proceedings. However, it is open to the parties to make an application before the learned arbitrator in this regard, if so advised.

b. It is expected that the parties will cooperate with each other in the spirit of the FSD and the resolution of the University. Although the University is not being referred to the arbitration at this stage, Mr. Vasdev states that the University will facilitate the implementation of the directions given by the learned arbitrator in this regard.

c. With this objective, it is further directed as follows: -

i. The computation of the amounts due from the petitioners' group to respondent Nos. 1 to 3 in terms of Clause 25 of the FSD, read with Annexure V thereof, will be placed before the learned arbitrator within two weeks. The parties may seek necessary direction in this regard from the learned arbitrator, including for the amounts to be deposited with him in escrow.

ii. Mr. Vasdev states that the documents required to be issued by the University will be issued simultaneously upon deposit of the amount contemplated by Clause 25 of the FSD read with Annexure V therein by the petitioners.

iii. The petitioners will furnish quarterly accounts as directed in paragraph 12 above.

iv. Mr. Nandrajog states that the respondent Nos. 1 to 3 have not interfered, at any stage, in the independent functioning of HIMSR under the MREC. He assures the Court that they will continue to cooperate with the petitioners in maintaining the independent status of HIMSR under the MREC and will not take any steps inconsistent therein.



d. The parties may make their respective claims under the FSD before the learned arbitrator. It is made clear that the parties may also approach the learned arbitrator for further directions under Section 17 of the Act. The directions given in this order are only intended to hold the field until the learned arbitrator has the opportunity to consider the matter and pass further directions, as may be required from time to time. The parties are at liberty to seek modification, variation, or vacation of the orders passed by this Court before the learned arbitrator.

e. Learned Senior Counsel for the parties state that the learned arbitrator may be requested to fix his own remuneration in accordance with law."

12. A perusal of the above paras clearly show that the entire disputes with regard to the FSD dated 22.10.2019 and its implementation is already pending before a sole Arbitrator. The parties are also participating before the learned Arbitrator. Hence, to my mind, the petitioners should approach the learned Arbitrator, who is seized of the matter under Section 17 of the Arbitration and Conciliation Act, 1996.

13. The learned Arbitrator is capable of passing the orders which are being sought to be passed by this court.

14. Since the learned Senior Counsel for the petitioners states that there is urgency in the matter as there is an apprehension of assets being dissipated (denied by the learned Senior Counsels for the respondents), as and when the application under Section 17 of the Arbitration and Conciliation Act, 1996 is filed, the learned Arbitrator is directed to dispose it of as expeditiously as possible, preferably within a period of 04 weeks from the date of the application.

15. Nothing has been observed from the merits/ demerits of the case.

16. With these directions, the petition is disposed of."

14. A perusal of the aforesaid orders points out that this Court had taken note of Clause 45 of the FSD wherein an Arbitration Agreement between the parties contained in the FSD was noted. It was only thereafter that this Court was of the considered opinion that as per Clause 45 any dispute which may arise between the parties in terms of clauses of FSD, ought to be referred to arbitration. Since filling up and filing of Form 10AB and the objections raised



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by the DH are intrinsically intertwined with the segregation of properties, some of which, are admittedly subject matter of arbitration, it appears to this Court, and having due regard to the fact that there is no urgency, the prayers sought in the present application are referable to arbitration. In the interest of clarity, the relevant paragraphs and prayers of the application under Section 17 dated 04.06.2025 and 25.10.2025 filed by JD nos.1 and 2 before the Arbitral Tribunal in respect of the properties are extracted hereunder:

Application dated 04.06.2025:

*“24. Recently, it has come to the notice of the Claimants that some properties of HLI have purportedly been vested in HFI, by the Respondents. This appears to have been admitted by the Respondent No.1 in his reply to IA No. 7328/2025, filed by Petitioner No. 1 in CS(OS) No. 583/2018, in the Hon'ble Delhi High Court, which alludes to the payment of stamp duty for transfer of property. Copy of the Reply dated 08.05.2025, filed by the Respondent No. 1 in IA No. 7328/2025, filed by Petitioner No. 1 in CS(OS) No. 583/2025 is annexed herewith as **Document No. 12.***

25. No notice of the alleged vesting was served on the Claimants. The said properties, being properties of HLI could only have been vested in HFI, pursuant to a conjoint resolution of all the four trustees of HLI. The said act of vesting is, thus, for all intents & purposes a nullity.

26. While the FSD does contemplate the vesting of properties in the two aforementioned recipient trusts, the same could only have been done pursuant to a resolution of all the four trustees of HLI. Section 48 of the Indian Trusts Act, 1882 is categorical in this respect. Moreover, there is no gainsaying the fact that the vesting has to be done in a manner which is lawful and compliant with the provisions of various laws, more particularly the Income Tax Act.”

xxx

“PRAYERS

In light of the abovementioned facts & circumstances, it is respectfully prayed that this Hon'ble Court may be pleased to pass orders:

A. Restraining the Respondents, from vesting any assets, or monies of HLI, in any other entity, pending the arbitral proceedings.

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B. Restraining the Respondents, from utilizing the accumulated surplus of HLI, except as expressly authorized by the statement of accumulation, furnished to the Income Tax Department [Document No. 14 hereinabove], pending the arbitral proceedings.

C. Directing the Respondents to furnish the information sought in email dated 04.06.2025 [Document No. 20 hereinabove].

D. Pass any other such/other orders as this Hon'ble Court deems fit in the facts of the present case.

E. Grant ad-interim orders in terms of prayers A. & B. hereinabove.”

Application dated 27.10.2025:

*“7. It has already been brought to the notice of this Hon'ble Tribunal, vide two previous applications under Section 17 of the Act dated 05.06.2025 and 07.10.2025, both filed by the Claimants, that M/s Hammad Ahmed/Hamid Ahmed are conducting the affairs of HLI in a manner such that the income tax exemption available to HLI has been withdrawn by the Assessing Officer, on account of diversion of funds by Hamid Ahmed, who is a signatory to the FSD and a member of HLI[which is assessed to tax as an AOP]. This is not a mere allegation by the Claimants, but stands duly elaborated, in the assessment order of HLI, dated 26.03.2025, for AY 2023-24. Copy of the order dated 26.03.2025 is attached herewith and marked as **Annexure A-1**.*

xxx

*9. It is for this precise reason and to avoid any further misstatements and violations, the Claimants, on 04.06.2025, requested M/s Hammad Ahmed/Hamid Ahmed to provide proper information qua their activities, under various heads, such that the same could be properly verified, well in time, for the compliance of various statutory obligations by HLI, including but not confined to the filing of the tax audit report and return of income. Copy of the email dated 04.06.2025 is attached herewith and marked as **Annexure A-3**.*

20. It is also noteworthy, that M/s Hammad Ahmed/Hamid Ahmed claim to have diverted substantial HLI assets, which are a corpus of charity, to other entities, under the guise of 'vesting' without furnishing details. If this claim were to be taken at face value, they have little or no stake left in HLI and, therefore, would not be affected if any false, misleading statements & outrageous claims are made in the balance sheet, statement of income, audit report and return of income of HLI, leaving HLI and the

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Claimants to bear the brunt of this illegality. The conduct of M/s Hammad Ahmed/Hamid Ahmed is reprehensible, to say the least.”

“PRAYER

In light of the abovementioned facts & circumstances, it is respectfully prayed that this Hon'ble Tribunal may be pleased to pass orders directing the Respondents to:

A. Forthwith furnish to the Claimants, all the information and/or documents sought in the emails dated 04.06.2025[Annexure A-3] & 15.10.2025[Annexure A-4], respectively.

B. To further co-operate fully with the Claimants in the due diligence and verification of the said information, if required, by providing any further information and/or documents in support thereof, to the Claimants.

C. Pass any such/other orders as this Hon'ble Tribunal deems fit in the facts of the present case.”

15. That apart, *arguendo*, even if there is any deadline for filing any statutory documents with the IT Authorities on 30.09.2026, it would be contrary to the interests of justice to appoint an independent CA at this eleventh hour, which may in fact prove disastrous for both the parties. For this reason too, this Court is not inclined to pass any interim directions. Accordingly and in view of the above, the DH is permitted to file an appropriate application before the learned Arbitrator seeking appropriate interim or any other direction as desired.

16. It is further made clear that this Court has consciously not dealt with the questions and objections raised by the JD nos.1 and 2 in respect of executability or otherwise of the consent decree as also certain clauses encapsulated in the FSD, and are left open to be decided later at an appropriate stage.



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17. So far as the judgements relied upon by the parties are concerned, having regard to the aforesaid analysis and conclusion of referring the issue to arbitration, this Court need not examine the ratio laid down therein *in extenso*.

18. In view of the above, the application is disposed of as above.

19. In case any application, pursuant to this order, is filed by the DH, the learned Arbitral Tribunal is at liberty to decide the same in accordance with law, on its own merits without being influenced by any observations in this order.

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20. List on 02.12.2026.

**TUSHAR RAO GEDELA
(JUDGE)**

SEPTEMBER 29, 2026

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