

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE SHRI RAJAL YADAV, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. Nos. 2395&2869/Ahd/2017

(निर्धारण वर्ष / Assessment Year: N.A.)

Jamiyatul Quresh Baitulmal Trust 1737, Quresh Manzil, Khas Bazar, Ahmedabad- 380001	बनाम/ Vs.	Pr. CIT(Exemp.) 111-112, Annexy, Aaykar Bhavan, Ashram Road, Ahmedabad- 380009
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAC TJ3 495 L		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

Jamiyatul Quresh Baitulmal Trust 1737, Quresh Manzil, Khas Bazar, Ahmedabad- 380001	बनाम/ Vs.	CIT(Exemp.) 111-112, Annexy, Aaykar Bhavan, Ashram Road, Ahmedabad- 380009
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(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri P. F. Jain, AR
प्रत्यर्थीकीओरसे / Respondent by:	Shri Jagdish, CIT DR

सुनवाईकीतारीख/Date of Hearing	24/09/2019
घोषणाकीतारीख /Date of Pronouncement	21/10/2019

आदेश/O R D E R

PER AMARJIT SINGH - AM:

These two appeals filed by the Assessee for A.Y. N.A., arise from order of the Pr. CIT(E), Ahmedabad & CIT(E), Ahmedabad dated 28.09.2017 & 28.11.2017, in proceedings under section 12AA & 80G(5) of the Income Tax Act, 1961; in short "the Act".

ITA No. 2395/Ahd/2017:-

2. The assessee Trust has applied for registration u/s. 12AA in Form No. 10A under Rule 11AA of the Act on 17.03.2017. The Ld. Pr. Commissioner of Income Tax(Exemption) has rejected the application for approval u/s. 12AA of the Act on the ground that assessee has failed to file documentary evidences to enable him to satisfy about genuineness of its activity and to verify that those activities were in consonance with its object.

3. During the course of appellate proceeding before us the Ld. Counsel has filed Paper Book and contended that the required detail and copies of documents were furnished before the Ld. Commissioner of Income Tax and the same have not been considered before rejecting the application of the assessee vide order dated 28.09.2017.

4. On the other hand, the Ld. DR has supported the order of CIT(E).

5. We have heard both the sides and perused the material on record. With the assistance of Ld. Representative we have gone through the material placed in the Paper Book. It is noticed that vide letter dated 16.03.2017 the assessee has furnished the following document along with application made with Form No. 10A of the Act:-

- “1. Form No. 10A.
2. Registration certificate by Charity Commissioner.
3. Copy of Memorandum of Association.
4. List of trustees.
5. Copies of Pan number of the Trust and trustees.
6. Copy of undertaking.
7. Copy of certificate u/s. 13(1)(C)”

Thereafter, vide letter dated 12.05.2017 the Ld. Commissioner of Income Tax(Exemption) has directed the assessee to produce different details and documents and the assessee vide letter dated 25.05.2017 has furnished the required information from Serial No. 1 to 30 on all the 33 points stated by the Ld. CIT(E) in his letter dated 12.05.2017. Thereafter, on 01.08.2017 the Ld. CIT(E) has issued

another letter to the assessee for submission of further documents and information pointed at Serial No. 1 to 25 of the letter. The assessee has responded vide letter dated 12.08.2017 stating that similar letter was received on 12.05.2017 and the required information was furnished vide letter dated 25.05.2017.

6. On perusal of the foregoing facts it is observed that Ld. CIT(E) has not specifically pointed out the information which were to be submitted by the assessee and similar type of the letter i.e. dated 12.05.2017 was issued on 01.08.2017 after incorporating additional details. After considering the above opaqueness in the communication made to the assessee, we are of the view that it will be appropriate to restore this case to the file of CIT(E) for adjudicating the issue denovo on merit after considering the detail furnished by the assessee. Accordingly, the issue in appeal is restored to the file of the CIT(E) for adjudicating a fresh after affording adequate opportunity to the assessee. Therefore the appeal is allowed for statistical purpose.

ITA No. 2869/Ahd/2017:-

7. The brief facts is that assessee has applied for registration of the Trust u/s. 80G(5) of the Income Tax Act on 22.05.2017 in Form No. 10G under Rule 11AA of the Act. The Ld. Commissioner of Income Tax(Exemption) Ahmedabad has rejected the application filed in Form No. 10G for the approval u/s 80G(5) of the Income Tax Act stating that assessee has failed to file documentary evidences therefore the genuineness of the activities of the Trust and also could not verified.

8. During the course of appellate proceeding before us the Ld. Counsel has referred the Paper Book filed on 23.09.2019 comprising of particulars of information/documents furnished before the Ld. Commissioner of Income Tax(Exemp.) and contended that same have not been considered before rejecting application of the assessee vide order u/s. 12AA of the Income Tax Act dated 28.09.2017.

9. On the other hand, the Ld. DR has supported the order of Ld. CIT(E) Ahmedabad.

10. With the assistance of the Ld. Representative we have gone through the material placed in the Paper Book. It is noticed that vide letter dated 22.05.2017 the assessee has furnished the following documents:-

- “1. Copy of application in Form No. 10G.
2. Copy of Memorandum of Association.
3. Copy of Registration certificate by Charity commissioner dated 09.03.2016 bearing no. F/18871/Ahmedabad.
4. Copy of certificate u/s. 13(1)(C).
5. Copy of undertaking.
6. Copy of Pan Number of Trust.
7. Copy of Pan Number of Trustees.
8. Details of main object of the Trust.
9. Application for grant of 12AA furnished dated 16.03.2017.”

Thereafter, vide letter dated 24.10.2017 the Ld. Commissioner of Income Tax(Exemp.) Ahmedabad has directed the assessee to furnish further copies of document and information and the assessee has filed the detail as referred in the above cited letter vide letter dated 21.11.2017. The assessee has also enclosed copy of bank statement of the assessee Trust at Page No. 43 of the Paper Book and contended that it demonstrate that assessee Trust has carried out activities which has not been considered by the Ld. Commissioner of Income Tax (Exemp.) before passing order u/s. 12AA of Income Tax Act on 28.09.2017.

10. In the light of the above facts and circumstances we observed that Ld. Commissioner of Income Tax has not given specific findings after considering the detail furnished by the assessee as referred in letter dated 21.11.2017 and not given specific finding to substantiate that assessee Trust has neither carried out any charitable/religious activity nor established corpus to undertake the charitable activity. Therefore, we are of the view that it will be appropriated to restore this case to the file of Commissioner of Income Tax(Exemp.) for deciding a fresh as

directed above after providing adequate opportunity to the assessee. Therefore, the appeal of the assessee is allowed for statistical purpose.

11. In the result, both appeals of the assessee are allowed for statistical purpose.

This Order pronounced in Open Court on 21/10/2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad: Dated 21/10/2019

TANMAY

TRUE COPY

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।