

**आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**SURAT BENCH, SURAT**

**BEFORE SHRI SANDEEP GOSAIN, Hon'ble Judicial Member**  
**AND SHRI O.P.MEENA, Hon'ble Accountant Member**

**आ.अ.सं./I.T.A No.318/SRT/2019**

**निर्धारण वर्ष/Assessment Year: -**

Better Life Society, 206, SNS Square, Opp. Reliance Market, Vesu, Surat – 395007. <b>[PAN: AAEAB 8162 F]</b>	V s .	The Income Tax Officer, CIT(Exemptions), Ahmedabad.
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

निर्धारितकीओरसे /Assessee by	Shri H.N.Vepari – CA
राजस्वकीओरसे /Revenue by	Shri Sreenivas T.Bidari – CIT-DR

सुनवाईकीतारीख/ Date of hearing:	03.02.2020
उद्घोषणाकीतारीख/Pronouncement on:	03.02.2020

**आदेश / O R D E R**

**PER SANDEEP GOSAIN, JM:**

1. This appeal by the Assessee is directed against the order of Ld.Commissioner of Income Tax(Exemption), Ahmedabad dated 16.04.2019.

2. Grounds raised by the Assessee read as under:

- “(1) *The CIT (Exemption), Ahmedabad was not justified in rejecting application u/s.12Aa of the Income Tax Act, 1961, particularly when the appellant satisfied all the conditions that were necessary.*
- (2) *The appellant craves leave to add, alter or vary any of the grounds of appeal.”*

3. Brief facts of the case are that the assessee has applied for registration of trust u/s.12AA of the Income Tax Act before the

ld.CIT(Exemption), Ahmedabad, however, the said application for registration u/s.12AA of the Income Tax Act was rejected by the CIT(Exemption), Ahmedabad by holding that assessee failed to file documentary evidences to enable him to bring satisfaction about the genuineness of the Trust activities.

**4.** The ld.CIT(Exemption) held that the assessee has not filed self-certified copy certification registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts as the case may be either with the application. As per the Rule 17A (1) of the I.T.Rules, 1962 an application under clause (aa) or clause (ab) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in Form No.10A and accompanied by self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be. The ld.CIT(E) further held that the assessee failed to furnish the statutory requirement for registration u/s.12AA of the I.T.Act, therefore, no verification of the objects as per the Agreement of Association of Persons (AOP)/Trust Deed/Constitution with the activities carried out if any could be made. Thus, the genuineness of the activities does not get established which clearly indicates that the assessee do not have any intention even to start charitable/religious activities.

**5.** On the other hand, whereas on the contrary, the ld.Authorised Representative (AR) submitted before that assessee had made an

application for registration u/s.12AA of the Act and the details were compiled as and when sought vide letter dated 02.10.2018 online in Form No.10A to obtain registration u/s.12AA of the Act. The details were fully compiled as sought vide letter dated 09.04.2019. He further submitted that unfortunately, order u/s.12AA rejecting application was passed on 16.04.2019 primarily giving reason as though the assessee had not compiled. As a result of non-availability of registration u/s.12A, the Trust despite genuine and with bonafide intention, is unable to pursue its activities to the fullest.

**6.** Be that as it may, after considering the rival submissions, we are of the view the matter requires reconsideration at the level of Learned CIT(Exemption). Since the assessee could not satisfy Id.CIT(E) by submitting the documents as highlighted by Id.CIT(E) in its order. Therefore, in our view the interest of justice would be met in case Assessee is provided one more opportunity to present the documents. Even otherwise, the principle of *audi alteram partem* is the basic concept of natural justice. The expression "*audi alteram partem*" implies that a person must be given an opportunity to defend himself. This principle is *sine qua non* of every civilized society. The right to notice, right to present case and evidence, right to rebut adverse evidence, right to cross examination, right to legal representation, disclosure of evidence to party, report of enquiry to be shown to the other party and reasoned decisions or speaking orders. We took this guidance for right of hearing, from the ratio as

is laid down by the Hon'ble Supreme Court in the case of Maneka Gandhi v. Union of India, wherein Hon'ble Supreme Court has laid down that rule of fair hearing is necessary before passing any order. We find that it is pre-decision hearing standard of norm of rule of *audi alteram partem*. We, are therefore, of the view the matter requires reconsideration at the level of Learned CIT(Exemption), thus, we restore it back to Ld.CIT(Exemption) and direct that assessee be given one more opportunity of being heard and to file all the documents before the ld.CIT(Exemption), Ahmedabad as called-for and the ld.CIT(Exemption) is also directed to decide the application for Registration filed by the assessee by passing a fresh order, accordingly the appeal of the assessee set-aside to the file of ld.CIT(Exemption) for statistical purposes.

**7.** In the result, appeal of the assessee is allowed for statistical purpose.

**8.** Order pronounced in the open court on 03-02-2020.

**Sd/-**  
**(O.P.MEENA)**

(लेखा सदस्यतथा/ACCOUNTANT MEMBER)

**Sd/-**  
**(SANDEEP GOSAIN)**

(न्यायिक सदस्यकेसमक्ष /JUDICIAL MEMBER)

सुरत/ **Surat**, दिनांक **Dated:** 3<sup>rd</sup> February, 2020/S.Gangadhara Rao, Sr.PS

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

**By order**

/ / **TRUE COPY** / /

**Assistant Registrar, Surat**

