

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 1250/AHD/2015
(Virtual hearing in Virtual Court)

Samarpan Education & Charitable Trust, 1, Vishal Bunglow Nandi Park Society, Piplod, Dumas Road, Surat – 395 007. PAN : AAMTS3644J	Vs	Principal Commissioner of Income Tax, (OSD) (Exemption), Ahmedabad.
APPELLANT		RESPONDEDNT

Appellant by	Shri P M Jagasheth - CA
Respondent by	Shri Sreenivas T Bidari- CIT(DR)
Date of hearing	01-09-2020
Date of pronouncement	01-09-2020

ORDER

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax, (OSD) /(Exemption) [in short “the PCIT(E)”], Ahmedabad dated 20/03/2015 passed under section (u/s.)12AA of Income Tax Act [in short “the Act”].

2. The assessee has raised the following grounds:-

“1. On the facts and in the circumstances of the case as well as law on the subject, the Principal Commissioner of Income Tax has erred in rejecting applicant trust’s application for registration u/s.12AA of the Income Tax Act, 1961.

2. It is therefore prayed that the above addition may please be deleted as learned members of the tribunal may deem it proper.

3. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.*

3. Brief facts of the cases are that the assessee is a Charitable Trust. The assessee filed an application in Form 10A as per Rule 11AA of the Income Tax Rules for seeking registration u/s.12AA of Income tax Act. On receipt of the application in the prescribed format, the ld. PCIT(E) *vide* notice dated 05/12/2014 asked the assessee to furnish certain information and details. The ld. PCIT(E) in para 4 of his order noted that the assessee neither attended his officer nor furnished required details and that *vide* show cause notice on 16/02/2015 the assessee was again asked to furnish the necessary details. The ld. PCIT(E) in Para No.4 of his order noted that the assessee failed to provide necessary information and failed to substantiate genuineness of activities and object of the trust/assessee. The ld. PCIT(E) on the basis his above said observation took his that in absence of complete details/ documents, it is not possible to satisfy about the genuineness of the activities of the assessee. It was also noted by the Ld. PCIT€ that similar application of assessee was rejected on earlier occasion on 25.09.2019 and that no further appeal is filed before the Tribunal, rather the assessee has filed a fresh application for registration. And the application of assessee was rejected by *vide* order dated 20.03.2015. Thus, aggrieved the assessee has filed present appeal before this Tribunal.

4. We have heard the ld. Authorized Representative (AR) of the assessee and the ld. Departmental Representative (DR) for the Revenue. The Ld. AR of

the assessee submits that the assessee in response of the first show cause notice furnished necessary details in the office of PCIT(E). The assessee filed sufficient evidence to substantiate the object of the trust and genuineness of activity. The ld. AR submits that copy of document furnished before ld. PCIT(E) is placed on record before the Tribunal, which consist of copy of trust deed, copy of evidence, showing the activities carried out by the assessee. The ld. AR submits that the ld. PCIT(E) denied the registration on the ground that the assessee has not furnished necessary documents about the genuineness of the activities carried out by assessee, or if such activities are in accordance with the object of the trust deed. The PCIT(E) also held that similar application of assessee was rejected on 31/09/2014 and that the assessee has not challenged the order before ITAT. The ld. AR submits that there is no bar under Provisions of Section 12AA for applying the registration reference even if the application made earlier was rejected. The ld. AR submits that the assessee has not given sufficient and proper opportunity of hearing. The Ld. AR for the assessee submits that the application of the may be restored to the file of PCIT(E) for considering the application of assessee afresh by giving one more opportunity of hearing to the assessee to substantiate the genuineness of activities and object of the assessee trust.

5. On the other hand, the ld. Departmental Representative (DR) for the Revenue supported the order of the ld. PCIT(E). The ld. DR submits that the assessee was given sufficient opportunity to substantiate the genuineness of activities of assessee and/ or if the assessee carried out

its activity in accordance with the object of the assessee. The ld. DR further submits that in Para 4 of the order, the ld. PCIT(E) has given categorically finding that despite of giving opportunity. The assessee failed to substantiate the genuineness of the activities of the assessee.

6. We have heard the considered the rival submissions of both the parties and have gone through the order of ld. PCIT(E). We have also gone through the various documentary evidences furnished by ld. AR of the assessee. Section 12AA of the Income Tax Act, prescribes the procedure of registration, which mandate that while considering the registration of the application under section 12AA, the ld. DIT/CIT has to satisfy about the object of the trust and genuineness of its activities. We have noted that the ld. PCIT(E) rejected the application by taking view that the assessee has not furnished complete details to satisfy the genuineness of the activities of the assessee. The second objection of ld. PCIT(E) was that on earlier occasion on 29/09/2014, the earlier application was rejected. In our view, there is no bar under the Provisions of Section 12AA for making fresh application for registration. Before us, the ld. AR of the assessee vehemently submitted that he has furnished the copy of trust deed evidence substantiating genuineness of activities undertaken by the assessee and the relevant documentary evidence to substantiate the same. Considering the facts and circumstances of the case and the fact that the registration u/s.12AA was rejected for the want of complete details/ documents about the genuineness of the activities. Therefore, we are of the view be given opportunity to substantiate the genuineness of activities. Hence, we restore the application of the assessee to the file of

the ld. PCIT(E)/DIT to consider it afresh and pass the order in accordance with the law. Needless to order that before passing the order afresh, the ld. DIT/ PCIT(E) shall grant adequate opportunity of hearing to the assessee. The assessee has also directed to provide all necessary details of information/evidences to substantiate the genuineness of object and the activities undertaking by the assessee.

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

Order pronounced on 01/09/2020, as per Rule 34 of Income Tax Appellate Tribunal, Rule 1963.

Sd/-
(DR. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 01/09/2020
Samanta, PS

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

// True Copy //

By order

Assistant Registrar, ITAT, Surat