

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
Dr. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 271/SRT/2017 (AY 2013-14)
(Hearing in Virtual Court)

Shri Saibaba Parivar Trust C/o Rasiklal Chhaganabhai Patel, Bangi Falia, Mitha kuva, Billimora, Gandevi, Navsari PAN : AAITS 2172 H	Vs	Income Tax Officer (Exemption Ward) Aaykar Bhavan, Majura Gate, Surat
Assessee / appellant		Revenue / respondent

Assessee by	Shri Akshay Modi, C.A.
Revenue by	Shri Ritesh Mishra, CIT-DR
Date of hearing	09.07.2021
Date of pronouncement	26.07.2021

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of Id. Commissioner of Income tax (Appeals)-3, Surat dated 13.09.2017 for assessment year (AY) 2013-14. The assessee has raised the following grounds of appeal:-

- (1) On the facts and in the circumstances of the case and in law, the learned CIT(Appeals), Surat erred in confirming the order of the ITO, Exemption Ward, Surat denying the claim of expenses incurred for Rs.3,40,873/- in fulfilment of the objects of the AOP (trust) and hence, liable to be struck down.
- (2) On the facts and in the circumstances of the case and in law, both the lower authorities have grievously failed to appreciate the fact of incurrance of expenses towards the

objects of the appellant AOP (trust), merely on the ground of rejection of application for registration u/s 12A of the Act and hence, not justified.”

2. Brief fact of the case are that assessee is a Public Charitable trust, set up for charitable objects. The assessee is registered under provision of Bombay Public Trust Act, vide registration dated 24.08.2007. The assessee filed his return of income for assessment year (AY) 2013-14 declaring total of Rs.1,36,994/-. The case was selected for scrutiny and assessment completed under section 143(3) on 04.03.2014. The Assessing Officer while passing the assessment order disallowed the expenses of Rs.3,40,873/-for the want of registration under section 12AA of the Act. On appeal before the Ld. Commissioner (Appeals) (CIT(A), the action of Assessing Officer was upheld. Further aggrieved, the assessee has filed present appeal before this Tribunal.
3. We have heard the submission of Ld. Authorized Representative (AR) of the assessee and Ld. Departmental Representative (DR) for Revenue and perused the material on record. The Ld. AR of the assessee submits that assessee is a public charitable trust. The assessee applied for registration

under section 12AA of the Act. The application for registration under section 12AA was rejected by ld. CIT (Exemption) vide order dated 28.08.2014. The Assessing Officer disallowed the expenses of Rs.3,40,873/- on the ground that assessee has not having registration under section 12AA of the Act. The Ld. AR of the assessee submits that assessee is being assessed as Association of Person (AOP) since inception. The assessee incurred expenses wholly and exclusively for the purpose of the assessee-trust. The Assessing Officer disallowed the expenses on erroneously arbitrary, which were upheld by ld CIT(A). The genuineness of expenses are not doubted. The assessee has not claimed exemption of any receipt of the surplus of receipts. Thus, being AOP, the assessee was entitled for deduction of the expenses.

4. On the other hand, the Ld. DR for the Revenue supported the order of lower authorities.
5. We have considered the rival submission of both the parties and considered the orders of lower authorities. There is no dispute that assessee is a trust. Further, on perusal of contents of assessee-trust, we find that the object of trust is of

charitable activities. Further, we find that assessee, though, applied for registration of trust under section 12AA of the Act, however, the application of assessee was rejected by Ld. CIT (Exemption) vide order dated 28.08.2014. The Assessing Officer disallowed the expenses by taking view that assessee is not having registration under section 12AA. We find that assessee has not claimed any exemption of any receipt or surplus. In our view, even if, the assessee is not having registration, is entitled for expenses incurred exclusively in connection with activities carried out by it being AOP. Therefore, we direct the Assessing Officer to delete the entire disallowance of expenses.

6. In the result, the appeal of the assessee is allowed.

Order pronounced on 26/07/2021 as per Rule 34(5)
of income tax (Appellate Tribunal) Rules 1963.

Sd/-

(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER
Surat, Dated: 26/07/2021
Dkp. Sr.P.S. O.S

Sd/-

(PAWAN SINGH)
JUDICIAL MEMBER

Copy to:

1. Appellant-Shri Saibaba Parivar Trust,
C/o Rasiklal Chhaganabhai Partel, Bangi
Falia, Mitha kuva, Billimora, Gandevi, Navsari
2. Respondent- ITO (exemption Wd), Aaykar Bhavan, Majuragate,
Surat
3. CIT(A)-Surat-3
4. CIT
5. DR
6. Guard File

By order

Assistant Registrar, ITAT, Surat