

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

(Conducted Through Virtual Court)

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

ITA No.297/Rjt/2016

Assessment Year :-

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| Shri Jamnagar Visha Shrimali Tapgacha Swmi Vatsalya Aymbli & Dharmik Fund Khatu Now Known as Jaman Khatu Opp: GPO, Jain Pathshal, Jamnagar 361 001. | Vs | CIT (Exemptions) Ahmedabad. |
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| (Applicant) | (Responent) |
|---------------|-----------------------------|
| Assessee by : | Shri Kalpesh Doshi, AR |
| Revenue by : | Shri Samir Tekriwal, CIT-DR |

मुनवाई की तारीख/Date of Hearing : 26/04/2022

घोषणा की तारीख /Date of Pronouncement: 29/04/2022

आदेश/O R D E R

PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the assessee against order dated 13.6.2016 passed by the Commissioner of Income-tax (Exemptions), Ahmedabad passed under section 12AA(1) r.w.s. 12A(a) of the Income Tax Act, 1961 (hereinafter called as “the Act”).

2. Brief facts of the case is that the assessee-trust has made an application under section 12A(a) of the Act on 25.3.2014 in the office of Commissioner of Income Tax, Jamnagar. This application was not found in order and the same was rejected by the Id.CIT vide order dated 7.8.2014. Aggrieved against the same, the assessee filed

appeal before the Tribunal, and the Co-ordinate Bench of the Tribunal vide order dated 7.10.2015 in ITA No.686/RJT/2014 has set aside the impugned order to the file of CIT(Exemption) with direction to examine the application on merits and pass a speaking order in accordance with law, after providing due opportunity of hearing to the assessee. Pursuant to the same, the CIT(Exemption) gave a personal hearing 11.12.2015, however, the assessee did not appear before him. Again on 8.1.2016 another opportunity was given but none remained on behalf of the assessee. However, on 13.1.2006 one Shri Dinesh Shah, Chartered Accountant attended and filed auditor's report in the name of "Shri Shrimali Tapa Swami Ambel and Other Dharmik Fund, Jamnagar." Thereafter, the CIT(Exemption) requested the assessee to file activity report of the Trust and audited accounts and balance sheet of the Trust before 22.1.2016. However, the assessee stated to be filed some documents, which were irrelevant to the subject matter. The CIT found that PAN AAATS 9663 H furnished by the assessee-trust was not related and/or allotted to the assessee-trust, hence, a final notice has been given to the assessee to produce all the relevant material on 14.3.2016. But here also the assessee has not furnished material as sought for by the CIT(Exemption) and not appeared for the hearing. In the absence of proper material before the Id.CIT(Exemption), he has again rejected the application for registration under section 12AA of the Act. Aggrieved against the same, the assessee is again before the Tribunal.

3. The Id.counsel for the assessee submitted that the name of the assessee-trust has been changed to "Jaman Khatu" and without appreciating this fact, the Id.CIT(Exemption) rejected the application of the assessee on the ground of discrepancies in the PAN number. He further submitted that the assessee is ready to produce all

relevant material and requested to set aside the matter to the file of the ld.CIT(Exemption) for reconsideration on the issue. He further submitted that the assessee had also submitted that there were seven different sub-trusts subsisting under the main trust, and assessee-trust is one of such sub-trusts, which has been registered under the Bombay Public Trust Act on 30.3.1961. Copy of registration certificate has been filed along with paper book. He further drew our attention to para 8,9,10 and 11 of grounds of appeal wherein it has been pleaded that the application u/s 12AA was made for the assessee i.e. Shri Jamnagar Visha Shrimali Tapgacha Swami Vatsalya Ayambli & Dharmik Fund Khatu which is a sub-trust under the main trust. The learned CIT(Exemptions), Ahmedabad has held that the PAN AAATS 9663 H is in the name of other trust. But the fact is that the assessee's PAN is registered in its own name and the new name of the Trust is "Jaman Khatu". It is further pleaded that in respect of all sub-trusts including the assessee, separate accounts are maintained as well, they are audited as per the requirement of the Act. The ITR as well as audit reports are regularly filed, and copies of which are available in the paper book. It is further pleaded that due to typical structure of the formation of trust, lead to some confusion and therefore the documents submitted to the CIT(Exemption) are of the primary trust and not of the assessee-trust, which the CIT(E) construed that the assessee was unable to justify the charitable activities carried out by the assessee-trust.

4. The ld.DR appearing for the Revenue states that this is the second round of appeal before the Tribunal. As directed by the Tribunal in earlier round, the assessee has not filed required documents in spite of various opportunities. However, looking into the documents now placed before this Tribunal, the ld.DR has no

serious objection in remanding the matter back to the file of the ld.CIT (Exemption) for verification and reconsideration on the issue.

5. We have given our thoughtful consideration to the submissions made by both the sides; we have also gone through the orders of the lower authorities and the copies of documents placed by the assessee in the paper book in support of its case. Weighing the submissions of the ld.counsel for the assessee and copies of documents placed on record, we find force in the submissions of the counsel that issue regarding registration of trust under section 12AA of the Act requires reconsideration. Therefore, in the interest of justice and fair play, we again remand the issue back to the file of the ld.CIT(Exemption) for reconsideration on the basis of submissions of the assessee and the supporting documents. Needless to say, the assessee shall submit all the documents and explanation and shall cooperate with the department in adjudicating the issue in respect of registration under section 12AA of the Act. With this direction, we allow the appeal of the assessee for statistical purpose.

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

Order pronounced in the Court on 29th April, 2022 at Ahmedabad.

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

Ahmedabad, dated 29/04/2022

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