

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 94/CHNY/2021

**M/s. Namakkal Brahmin Sevaa  
Trust,**  
53/23, OMC Street,  
Sri Sathguru Bhavanam,  
Namakkal – 637 001.

**The Income Tax Officer,**  
v. Exemption Ward,  
Salem -636 007.

**PAN: AACTN-2998-N**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. S. Sridhar, Advocate &  
Shri. N. Arjunraj, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 23.05.2022

घोषणा की तारीख/Date of Pronouncement

: 23.05.2022

**आदेश / O R D E R**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal by the Assessee is arising out of the order of CIT (Exemption), Chennai vide order no. ITBA/EXM/S/EXM1/2020-21/1031566946(1) dated 17.03.2021 passed u/s. 12AA(1)(v)(ii) of the Income-tax Act, 1961 (herein after referred to as "the Act").

2. The grounds of appeal in the instant case relates to rejection of application filed by the Ld. CIT(E) for registration u/s. 12AA of the Act.

3. The brief facts of the case are that the assessee (Namakkal Brahmin Sevaa Trust) filed an online application in Form no. 10A on 08.09.2020 seeking registration as a charitable trust u/s. 12AA of the Act. While dealing with the application of the assessee for registration u/s. 12AA of the Act, Ld. CIT(E), summarily rejected the application for registration without passing a speaking order. Ld. CIT(E) very briefly and in summarized way noted that assessee has failed to fulfill the statutory requirements as specified in section 11 to 13 of the Act and therefore, its application for registration u/s. 12AA of the Act is rejected. The relevant portion of the order of the Ld. CIT(E) is reproduced here under for ease of reference:

*"In view of the above, the assessee was requested vide letter dated 02.03.2021 to show cause as to why its application in Form 10A filed on 08/09/2020 seeking registration as Charitable Trust, should not be rejected for the reason that the objects of the charitable trust is not in accordance with the provisions of Sections 11 to 13 of the Income Tax Act, 1961.*

*The assessee was requested to furnish its reply on or before **08.03.2021** by post and/or e-filing portal of the Income Tax Department. It was also informed that failure to furnish its reply within the due date would result in disposal of the above referred application based on material available on record.*

*5. In response, the applicant filed a letter dated 05.03.2021 stating that all their activities are purely for welfare of the Public without any discrimination of caste and creed. However, on the contrary, this general statement of the applicant is in contradiction of with Clause 4(a) of the Trust Deed dated 16.09.2015 wherein it is categorically stated in the first object of the Trust that it is for development/ benefit of Brahmins. This clearly violates the Section 13(1)(b) of the Income Tax Act, 1961.*

*6. As the assessee has failed to fulfil the statutory requirements as specified in Sections 11 to 13 of the Income tax Act, 1961, its application*

*dated 08.09.2020 seeking registration u/s.12AA of the I.T. Act as Charitable-cum-Religious Trust is rejected."*

4. During the course of hearing before us, the Ld. Counsel of the assessee Shri. S. Sridhar, Advocate and Shri. N. Arjunraj, CA prayed for granting of an opportunity to make compliance and furnish detailed explanation before the Ld. CIT(E), if the matter is remitted back to the file of the Ld. CIT(E). To this, Shri AR V Sreenivasan, Addl. CIT raised an objection of not to remit the matter back to the file of the Ld. CIT(E).

5. We heard the rival contentions and perused the material on record and find that in the interest of justice, fair play and good conscience it is appropriate to remit the matter back to the file of the Ld. CIT(E) with a specific direction to deal with the matter meritoriously by passing a speaking order. Needless to say that assessee may be granted a reasonable opportunity of being heard, who is also directed to make all the necessary compliances as and when required by the Ld. CIT(E) in disposing the application for granting of registration u/s. 12AA of the Act.

6. Before parting, we would like to draw the attention to the settled position of law that so far as of granting of registration u/s. 12AA of the Act is concerned, the jurisdiction of CIT(E) is only to verify the

objects of the trust/institution and the genuineness of its activities, meaning thereby, he has to satisfy himself that the objects are charitable in nature and that the activities carried on or to be carried on, are genuine and nothing else.

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

Order pronounced on 23<sup>rd</sup> May, 2022 at Chennai.

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

Sd/-

(गिरीश अग्रवाल)

**(GIRISH AGRAWAL)**

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 23<sup>rd</sup> May, 2022

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                        |                          |                              |
|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT    | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.            |