

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT

**Before: Shri Waseem Ahmed, Accountant Member
And Shri Siddhartha Nautiyal, Judicial Member**

ITA No. 403/Rjt/2017

Shree Samast Varia Prajapati Gnati, Wankaner, Rajkot (Appellant)	Vs	The CIT(Exemption), Ahmedabad (Respondent)
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Assessee by: Written Submission
Revenue by: Shri Sanjeev Jain, CIT-D.R.

Date of hearing : 29-06-2022
Date of pronouncement : 08-07-2022

आदेश/ORDER

PER BENCH:-

This assessee's appeal arises from order of the Principal CIT (Exemptions), Ahmedabad dated 18-09-2017, in proceedings under section 12AA of the Income Tax Act, 1961; in short "the Act".

2. The assessee has raised the following grounds of appeal:-

“1. The Ld. C.I.T. has erred in law and facts in rejecting application for registration U/s. 12A filed by the appellant. The appellant deserves registration.

2. The Ld. C.I.T. has erred in law and facts in rejecting the application made for registration U/s. 12A on the irrelevant grounds. The appellant deserves registration.

3. The Ld. C.I.T. has erred in law and facts in rejecting the application made for registration U/s. 12A on the irrelevant considerations. The appellant deserves registration.

4. The Ld. C.I.T. has erred in law in not appreciating that as per legal and statutory position, the appellant was deserving registration. The appellant deserves registration.

5. The Ld. C.I.T. has erred in not granting registration without appreciating the factual and legal position that the appellant deserves registration from the first day of F.Y. in which application is made, i.e. 01-04 -2016. The appellant deserves registration.

6. Without prejudice the Ld. C.I.T. has erred in not providing reasonable time and adequate opportunity. The trust deserves registration.

7. The appellant craves leave to add I alter / amend and I or any or all the grounds of appeal before the actual hearing take place.”

3. The brief facts of the case are that the assessee filed an application for registration of trust under section 12AA of the Act on 27-03-2017, along with the registration certificate issued by the Charity Commissioner. The PCIT requisitioned the assessee to file certain details, but since the assessee did not file the necessary details as requisitioned by the Principal CIT, he dismissed the application of the assessee by holding that vide submission dated 11-09-2017, the assessee filed only a part of the details, however

details of activities along with supporting evidence in support of the claim and relevant information like bank statements etc. have not been filed by the assessee. Accordingly, the Principal CIT held that the assessee has neither carried out any charitable/religious activities nor established corpus to carry out the charitable activities. This clearly indicates that the applicant does not have intention to start charitable/religious activities. Accordingly, since the applicant has failed to file documentary evidences to enable Principal CIT to satisfy about the genuineness of its activities and to verify that these activities are in consonance with its objects, the Principal CIT rejected the approval under section 12AA of the Act.

4. Before us, the counsel for the assessee filed written submission and submitted that the information and details called for by the Principal CIT are available in the trust deed filed along with the application. Further, the Principal CIT has not carried out any inquiries nor has he specified in his order as to on what basis he has arrived at the conclusion that the assessee is not eligible for grant of registration under section 12AA of the Act. The counsel for the assessee submitted that it is not apparent from the order of rejection of application that on what basis the application of the assessee was rejected. The PCIT has not conducted any enquiry nor has the PCIT called for any report for showing anything against the assessee. Accordingly, the rejection of application of the assessee is unlawful in the instant set of facts. Further the counsel for the assessee, in the alternative, has requested for another opportunity of hearing by PCIT to allow the assessee to represent his case on merits.

5. We have perused the written submissions submitted by the counsel for the assessee and also the material available on record. In the light of the above facts highlighted before us, in the interest of justice, we are setting aside the matter to the file of the Principal CIT to consider the application of the assessee afresh, after giving due opportunity to the assessee to present his case. In the result, the matter is set aside to the Principal CIT with the above directions.

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

Order pronounced in the open court on 08-07-2022

Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER
Rajkot : Dated 08/07/2022

Sd/-

(SIDHHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Rajkot