

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT  
(Conducted through E-Court at Ahmedabad)**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

**ITA No.223/RJT/2017  
Assessment Year: 2014-15**

Shree Gamara Samajik Seva Mandal, vs. Commissioner of Income Tax  
C/o. D.R. Adhia, (Exemption), Ahmedabad.  
"Om Shri Padmalaya",  
Trikamraiji Haweli,  
16, Jagnath Plot,  
Dr. Yaganik Road,  
Opp. Imperial Hotel,  
Rajkot - 360 001.  
[PAN – AABTG 1455 C]  
(Appellant) (Respondent)

Assessee by : Written Submission  
Revenue by : Shri Shramdeep Sinha, CIT (DR)

Date of hearing : 05.09.2022  
Date of pronouncement : 28.09.2022

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

This appeal is filed by the Assessee against the order dated 29.09.2015 passed by the CIT(Exemptions), Ahmedabad for the Assessment Year 2014-15.

2. The Assessee has raised the following grounds of appeal:

- “1. *The Ld. CIT 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. CIT 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. CIT 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. CIT 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. CIT 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. 01.04.2014. The appellant deserves registration.*
6. *Without prejudice the Ld. CIT has erred in not providing reasonable time and adequate opportunity. The trust deserves registration.”*

3. The assessee filed application for registration of the Trust under Section 12AA of the Income Tax Act, 1961 on 20.03.2015 in Form No.10A under Rule 11AA of the Income Tax Rules, 1962 along with registration certificate of Charity Commissioner. The assessee has furnished detailed note on the activities actually carried out by the Trust along with various documents. The CIT (Exemptions) vide order dated 29.09.2015 has rejected the application on the ground that none appeared before the CIT(Exemptions).

4. Being aggrieved by the said order under Section 12AA of the Act, the assessee filed appeal before us.

5. At the time of hearing, none appeared on behalf of the assessee but the Ld. AR of the assessee filed written submissions which are reproduced as under:-

***“Written Submission:***

*Kind attention is invited to the hearing fixed of the above matter on 05-09-2022.*

2. *The Ld. CIT(A) has rejected the application made by the assessee in Form 10A for approval of registration U/s. 12AA.*

3. *The only reason given by the Ld. CIT(A) is that assessee has not complied with the notice issued calling certain documents and information. At Para. 2 of his letter the Ld. CIT has reproduced details required from the assessee. It is humbly submitted that the following information amongst other Sr. No. 3*

3. *Please state whether jurisdiction over the case vest with CIT(E), Ahmadabad with details of ward/ circle where you are filing return of income.*

4.1 Apparently it is humbly submitted that how this information called for is connected with the conclusion drawn by the Ld. CIT that he is not satisfied with the genuineness of the activities. Apparently it stand established that rejection of the application is based on irrelevant consideration.

4.2 Not only this the trust deed has already been submitted along with the application in spite of this Sr. No. 4 of his letter state whether trust contains religious, at Sr. No. 6 it is asked regarding object of the trust although it is fully verifiable from the trust deed this, like that Sr. 7, 8, 9 and 10 requires the details which is already available with the trust deed.

4.3 Thus the information and detail call for arc also almost available in the trust deed filed along with application and rest is either not relevant or the Ld. PCIT has not carried out any inquiry nor has specify in his order as, to which particular items comes in the way of consideration and grant of registration Us. 12AA.

5. The assessee therefore humbly submitted at the time of granting primary registration it is considered by almost all Hon. Benches of 1TAT on all over India. The assessee humbly submit the following for kind consideration.

1. The Hon. Karnataka High Court 45(1) / ITCL /44 has been please to hold that when the evidence by the trust deed and also other documents filed before the department are genuine and the object of the trust as per trust deed is not considered as not coming out of within the definition of the charitable purpose, the Hon. 1TAT was held justify in directing to grant registration.
2. Registration U/s. 12A cannot be denied though there was genuine object if there was any violation of Sec. 11 and 13 the same would be examined at the time of exemption, 78/DDR jodhpur ITAT.
3. Even if the application is part of religious activity per ac will nor render the trust as not entitle for registration. 45(II) ITCL 57 Chennai ITAT.
4. Where original trust deed as well as copy thereof along with income and expenditure account is already furnished. The rejection of 12A application will not approve. 27 SOT 423 Delhi ITAT.
5. Even if there is some suspicion regarding income as well as resources rejection was not approve by the Hon. P& H HIGH COURT 221 TAXMAN.
6. When refusal of registration without making any adverse comment of the genuine activity and the charitable nature of the object registration was directed to grant 174 TTJ 20 ITAT Jodhpur.

7. *When charitable character was no where question without bringing any material on record that the activities of the assessee was not genuine registration was directed to be granted 156 ITD 117 Chandigarh 1TAT.*
8. *Now it is apparent from the order of rejection of application clearly shows that no inquiry nor any report has been called for showing anything against assessee the action of the Ld, CIX to /ejects application of the assessee is unlawful and needs to be cancelled with direction to established independently with the relevant evidences that trust is not entitle to registration, he may kindly be directed to grant registration as prayed for by the assessee the assessee trust belonging to the lowest class of people viz. Uabari/Shepherd and all the communities without any discrimination. In any case to grant an another opportunity in the matter will be found most helpful at all the level being most judicious. The appeal may kindly be allowed as prayed for in the larger interest of justice."*

6. The Ld. DR submitted that the CIT(Exemptions) has given categorical finding that no documents were filed. Hence, the CIT(Exemptions) has rightly rejected the registration under Section 12AA of the Act. The Ld. DR relied upon the decision of Hon'ble Apex Court in the case of Harshit Foundation vs. CIT (Exemptions) 287 Taxman.com 394 (SC).

7. We have heard the Id. DR and perused all the relevant material available on record. It is pertinent to note that the CIT(Exemptions) has categorically quoted the details required on behalf of the assessee Trust but the assessee within the stipulated time could not produce the same. After going through the appeal records, it is found that there is a delay of filing the appeal before us of 568 days which was not explained by the assessee at any point of time. But, since the assessee has not been given any opportunity of hearing for placing the documents called for by the CIT (Exemptions), we are condoning the delay and direct the CIT(Exemptions) to consider the application of the assessee filed under Section 12AA of the Act after taking cognisance of the details filed before the CIT(Exemptions). Needless to say the assessee be given opportunity of hearing by following the principles of natural justice. We further direct the assessee to co-operate with the proceedings and file the relevant details within the stipulated time given by the CIT(Exemptions) otherwise the CIT(Exemptions) can decide the case according to the law.

8. In the result, appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on this 28<sup>th</sup> day of September, 2022.

Sd/-  
**(WASEEM AHMED)**  
Accountant Member

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 28<sup>th</sup> day of September, 2022**

**PBN/\***

*Copies to:*

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Rajkot Bench, Rajkot*