

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 798/JP/2016
निर्धारण वर्ष/Assessment Year :2016-17

Ajmer Saraffa Sangh, Naya Bazar, Ajmer.	बनाम Vs.	The CIT(Exemption) Kailash Heights, 3 rd Floor, Lal Kothi, Tonk Road, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAATA 9087 A		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Sh. Arihant Jain (CA)
राजस्व की ओर से / Revenue by : Shri P. R. Meena (CIT)

सुनवाई की तारीख / Date of Hearing : 28/09/2022
उदघोषणा की तारीख / Date of Pronouncement: 03/10/2022

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, A.M.

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Exemptions), Jaipur dated 20.06.2016 for the assessment year 2016-17 [hereinafter referred to as (CIT(E)] wherein the ld. CIT(E) on the basis of field verification and in absence of details not being furnished by the

assessee and rejected the application for registration U/s 12AA of the I.T. Act.

2. Aggrieved from the said order the appeal was filed which was delayed by 8 days and the same was condoned by an order dated 24.11.2016 by this Coordinate Bench but since there was no appearance, the appeal of the assessee was dismissed in limine.

3. Thereafter the assessee moved a Miscellaneous Application dated 19.12.2016 in ITA No. 798/JP/2016 seeking recalling the Tribunal order dated 24.11.2016 passed in order dated 15.05.2017. The Coordinate Bench vide order dated 15.05.2017 the allowed the Misc. Application and directed the registry to recall the order as the same was passed ex-parte.

4. Thus, this appeal is disposed off now on merits and in this appeal the assessee has raised the following ground:-

"Ld. CIT(Exemption) has denied exemption to the appellant only on the sole ground that:

(a) the activities of the appellant is not for benefit of public and

(b) activities are limited to the benefit of its members and their business establishment and;

(c) that appellant is working to provide benefit and convenience to its members and ;

*(d) that the members of appellant consists of a very small and limited group and is not public at large and ;
And hence the appellant is not working for advancement of any general public utility and it cannot be held charitable.*

Whereas section 2(15) of the IT Act provides "charitable purpose" include:

- (a) relief of the poor,*
- (b) education,*
- (c) medical relief, and*
- (d) Advancement of any other object of general public utility.*

The Ld. CIT (Exemptions) has accepted that the appellants is working for advancement and benefit of its members but the members are not general public, whereas honorable Higher courts and tribunals in their decisions has defined an object beneficial to a section of the public is an object of general public utility. To serve a charitable purpose it is not necessary that the object should be to benefit the whole of mankind or all persons in a country or State. It is sufficient if the intention to benefit a section of the public as distinguished from a specified individual is present. The section of the community sought to be benefited must be sufficiently definite and identifiable by some common quality of a public or impersonal nature. Person doing jewellery business in Ajmer and having experience of two years or more can only become member of the appellant and the appellant in working both for the benefit of the members and its customer viz. general public at large. Hence it would be incorrect to hold that objects relates to special group of person only. thus the community of people sought to be benefited are sufficiently definite and identifiable from individuals The appellant relies on the following case was in support of its contention:

- (1) Ahmedabad Rana Caste Association v. CIT Gujrat 82 ITR 704 (SC).*
- (2) CIT v. Jodhpur Chartered Accountants Society, (2002) 258 ITR 548 (Raj.)*
- (3) Add. CIT v. Madras Jew. and Diamond Merchant Association 129 ITR 214 (Madras).*
- (4) CIT Vs. Dawoodi Bohra Jamat — [2014] 364 ITR 31 (SC).*
- (5) CIT Vs. Pt. Ram Shanker Misra Trust — [1996] 222 ITR 252 (Allahabad).*

1. Hence in the facts of circumstances of the case the assessee prays it to be registered u/s 12A of the income Tax Act.

2. The appellant carves leave to add, amend, alter, vary and or withdraw any or all the above grounds of appeal with the prior permission of the chair.”

5. The Id. AR appearing on behalf of the assessee submitted that the assess is a group of uneducated people engaged in the business and not aware about the whole formalities under the Income Tax Act and since, the applications were rejected merely by the Id. CIT(E) on account of non submission of details as the detailed in para 3 of the Id. CIT(E) orders dated 20.06.2016. Therefore, he has prayed before the Bench that they are agreeable to furnish the details as may be requested by the Id. CIT(E) and therefore requested one more opportunity in the interest of justice be granted to the assessee for furnishing the details required and to prove that their trust fulfill requirement of law. The Id. AR of the assessee given oral assurance that they are ready to furnished all requirements for registration as may be called for by the office of the Id. CIT(E).

6. Per contra, the Id. DR objected that the parties are not cooperating before in ITAT as well as the same were remained not

cooperation and not submitted the details called for by the office of the Id. CIT(E) and Id. CIT(E) has rightly denied the benefit of registration U/s 12AA of the Act after taking proper report and verification and therefore the order of the Id. CIT(E) may please to sustain and the registration has rightly been denied based on the detailed facts placed on record.

7. We have heard the rival contentions and also persuaded the order of Id. CIT (E). We have also gone through the various legal judicial pronouncement relied upon by the assessee in their written submission. As the assessee admitted that they have not been complied / furnished the details due to lack of proper knowledge on procedural aspect of registration. Not only that then the activity of the trust are in the nature of general public utility but since the assessee has not placed on record the required details registration was simply denied on the non-compliance / non furnishing of details. In view of this fact, we are of the considered view that the assessee is required to be given one chance for furnishing the details required for registration in the interest of natural justice.

In terms of these observation, the appeal filed by the assessee is allowed statistical purposes and at the same learned Commissioner of Income Tax, (Exemption) is directed the issue a fresh after affording reasonable opportunity to the assessee to place on record their version and based on these CIT(E) may decide the issue a fresh in accordance with the law.

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

Order pronounced in the open court on 03/10/2022

Sd/-
(संदीप गोसाई)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

Sd/-
(राठौड कमलेश जयंतभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 03/10/2022

*Santosh.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Ajmer Saraffa Sangh, Jaipur
2. प्रत्यर्थी / The Respondent- CIT(Exemption), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA Nos. 798/JP/2016}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar