

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted Through Virtual Court)

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 448/Rjt/2018
Assessment Year: N.A.**

Shri Leuva Patel Nutan Kelvani Mandal Mavdi Main Road, Near Vishveshwar Temple, Rajkot PAN No: AAATL0920A (Appellant)	Vs	The C.I.T. (Exemptions), Ahmedabad (Respondent)
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**Assessee Represented: None
Revenue Represented: Shri Shramdeep Sinha, CIT-DR**

Date of hearing : 09-01-2023
Date of pronouncement : 11-01-2023

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee against the order dated 23.10.2018 passed by the Commissioner of Income Tax (Exemptions), Ahmedabad denying registration under section 80G(5) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The brief facts of the case is that the assessee is a Trust filed its application for registration of the Trust u/s. 80G(5) on 20/04/2018 in Form No. 10G under Rule 11AA of the Rules. The Ld. CIT(E) issued a letter dated 23/07/2018 calling for various details and activities carried out by the assessee Trust. As there was no response, another notice on 10/09/2018 fixing the case for hearing on 18/09/2018. However on 05/10/2018 only few details were submitted in part. Therefore the Ld. CIT(E) constrained to dispose of the registration application on the basis of materials available on record as follows:

5. On perusal of the details/documents submitted by the applicant trust and on verification of Constitution of the trust, it is revealed from the objects of the trust that objects are restricted to particular community i.e. "Leuva Patel". The objects of the trust show that the trust is established for the benefit of a particular community i.e. "Leuva Patel" and not for general public. Therefore, it is concluded that the trust is created for the benefit of a particular community which does not endure for the benefit of the public, and thus, provisions of Section 80G(5)(iii) of the I.T. Act, 1961 are squarely, applicable in this case.

6. Perusal of details available on records, it reveals that the applicant has not filed the copy of registration certificate u/s. 12AA of the I.T. Act, 1961 either with the application and in response to notices issued. In spite of specific requisitions, the applicant has not submitted the copy of registration certificate u/s. 12AA of the I.T. Act, 1961. Therefore, it transpires that the trust has not been granted registration u/s. 12AA of the I.T. Act, 1961 thereby rendering it ineligible for approval u/s. 80G(5) of the I.T. Act, 1961. Section 80G(5) r.w.r. 11AA of Income tax Rule 1962 makes it very clear that before granting approval under this section, the Commissioner has to satisfy himself about the genuineness of the activities of the trust or institution and also he has to verify that these activities are in consonance with the objects of the trust or institution. Reliance in this regard is placed on the case of Hardayal Charitable and Educational Trust vs. CIT-II, Agra, 150 TT3 384 (Agra) (2012) or 25 Taxmann.com 28 (Agra). As discussed in para 2 above, the assessee had submitted incomplete Form No. 10G and approval u/s. 80G(5) cannot be granted in response to incomplete Form No. 10G. As discussed above, the applicant has failed to file documentary evidences to enable me to satisfy about the genuineness of its activities and to, verify that these activities are in consonance with its objects.

7. Looking to the above facts, I am unable to arrive at the satisfaction of the genuineness of the activities. Hence, the application filed in Form No. 10G for the approval u/s. 80G(5) of the Income-tax Act, is rejected.

3. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

1. That the learned Commissioner of Income Tax (Exemptions), Ahmedabad has erred in law and on facts in refusing to grant registration U/S 80G(5) of the Income Tax Act, 1961.

2. That the learned Commissioner of Income Tax (Exemptions), Ahmedabad ought to have granted registration U/S 80G(5) of the Income Tax Act. 1961 looking to the facts and circumstances of the case.

3. That the learned Commissioner of Income Tax (Exemptions). Ahmedabad has not taken on record reply dated 05.10.2018 giving all the details called for vide their letter dated 10.09.2018.

4. That the learned Commissioner of Income Tax (Exemptions) has failed to appreciate that section 80(5)(3) are applicable in the instant case.

5. That the learned Commissioner of Income Tax (Exemptions) has not taken on record copy of certificate u/s 12A already filed with the application on 2811 April, 2018.

4. This appeal was fixed for hearing for the first time on 19/10/2022, none appeared on behalf of the assessee. Hence adjournment to 08/12/2022, again none appeared on behalf of the assessee, though notice was served by RPAD. Even though the appeal is adjourned to 09/01/2023. Again none appeared on behalf of the assessee. We find no authorization is given by the Assessee Trust to any Authorized Representative and no details has raised in the grounds of appeal, relevant documents or Paper Book not filed before us.

4.1. In the absence of the same, we are not in a position to adjudicate the grounds raised by the assessee. Though the assessee is given ample opportunities, the assessee is not chosen to adjudicate its appeal. Therefore the same is dismissed in limine.

5. In the result, the appeal filed by the Assessee is hereby dismissed.

Order pronounced in the open court on 11-01-2023

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 11/01/2023

Sd/-
(T.R. SENTHIL KUMAR)
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/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
राजकोट