

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

**Before: Shri Waseem Ahmed, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 54/Rjt/2018
Assessment Year: 2016-17**

Shri Khijda Mandir Trust, Junagadh College Road, Junagadh-362001 PAN No: AALTS5834K (Appellant)	Vs	The Pr.Commissioner of Income-tax (Exemptions), Ahmedabad (Respondent)
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**Assessee Represented: Shri Mehul Ranpura, A.R.
Revenue Represented: Shri Shramdeep Gupta, CIT-DR**

Date of hearing : 20-12-2022
Date of pronouncement : 11-01-2023

आदेश/ORDER

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

This appeal is filed by the Assessee against the Appellate order dated 26.12.2017 passed by the Commissioner of Income Tax (Exemptions), Ahmedabad rejecting the registration under section 12AA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The assessee is a Trust with the main object to run a Khijada Mandir (temple) for the Hindus providing meals to the pilgrims, Sadhus and providing shelters etc. The assessee filed its application in Form No. 10A for registration u/s 12AA of the Act on 27.06.2017 as per Rule 11AA of the Rules.

2.1. On perusing the same, the Ld. CIT(E) issued a letter dated 01.08.2017 to the assessee to furnish detailed note on the activities actually carried out by the Trust, as well as the supporting documents/details which is required mandatorily under the provisions of Section 12AA of the Act. However none appeared on behalf of the assessee. Therefore the case was fixed for hearing on 04.12.2017 making it clear non-compliance of above notice, the application for registration is liable to be rejected for not furnishing of details.

2.2. In the detail furnished by the assessee, the objects of the trust have not been clearly established and the trust deed filed along with the application form 10A is found defective, namely not containing the signature of all the Trustees. Hence the authenticity of the Trust Deed itself is not verifiable by Ld. CIT(E). Section 12AA of the Act makes it very clear that before granting registration, the Commissioner has to satisfy himself about the genuineness of the activities of the Trust or Institution. Reliance in this regard is placed on the Hon'ble Supreme Court Judgment in the case of CIT vs. Dawoodi Bohara Jamat Trust in Civil Appeal No. 2492 of 2014. Thus the Ld. CIT(E) unable to arrive at the satisfaction of the

genuineness and its activities of the trust and therefore rejected approval u/s 12AA of the Act.

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

1.0 The grounds of appeal mentioned hereunder are without prejudice to one another.

2.0 The order passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad [hereinafter referred to as the "CIT(E)"] u/s. 12AA of the Income Tax Act, 1961 is bad in law and on facts.

3.0 The learned CIT(E) erred on facts as also in law rejecting the application for registration u/s. 12AA of the Act alleging that the appellant failed to prove the genuineness of its activities with documentary evidences. The learned CIT(E) may kindly be directed to grant registration u/s. 12AA of the Act.

3.1. The Ld. Counsel Mr. Mehul J. Ranpura appearing for the assessee submitted before us a Paper Book containing various details, documents one such is English Translated copy of the Scheme for Management and Administration of Shree Khijada Mandir, Junagadh Trust No. 1-1004 dated 29.09.1984 formulated by Joint Charity Commissioner, Rajkot. The assessee also produced the certificate copy of the Public Trust Entry maintained by Assistant Charity Commissioner, Junagadh under the Bombay Public Trust Act, 1950 (Annexure 1, Rule 5- Register of Public Trusts) which contain seven names of persons as Trustees and objects of the Trust is to run Khijada Mandir for Hindus. The assessee also produced copies of the registration certificate issued by the Deputy Charity Commissioner, Rajkot vide Certificate dated 02.11.1965 confirming the registration of the Trust under the

Bombay Public Charitable Trust, 1950. The assessee also produced before us order for provisional registration under Rule 17/A/11AA/2C issued by Principal Commissioner of Income Tax giving provisional registration for the above trust on 11.03.2022 applicable from the Assessment Year 2022-23 to Assessment Year 2024-25. Thus pleaded that its application filed before Ld. CIT(E) may be reconsidered for registration u/s. 12AA of the Act.

4. The Ld. CIT-DR Shri Shramdeep Sinha appearing for the Revenue submitted that the Ld. CIT(E) clearly denied the registration u/s 12AA of the Act since the assessee has not furnished the required documents before the Authority. However taking a note of the provisional registration given by the Ld. PCIT dated 11.03.2022, the matter may be remanded back to the file of the Ld. CIT(E) for fresh consideration and only on production of relevant documents as per the provisions of Section 12AA of the Act, the assessee's application can be reconsidered by the Ld. CIT(E).

5. We have carefully gone through the materials available on record and the Paper Book filed by the assessee. The assessee produced before us copy of the registration certificate granted by Deputy Charity Commissioner, Rajkot dated 02.11.1965 and copy of the Scheme for Management and Administration of Shree Khijada Mandir, Junagadh Trust No. 1-1004 dated 29.09.1984 which is said to be the "Trust Deed" and drafted by Joint Charity

Commissioner, Rajkot. The assessee also produced before us copies of Audited Report for the Assessment Years 2014-15 to 2017-18.

5.1. We have perused the provisional registration granted by Ld. PCIT vide order dated 11.03.2022. In the light of the same, we deem it fit to set aside the matter to the file of the Ld. CIT(E) to look into the matter fresh and reconsider the registration u/s 12AA of the Act, subject to the assessee fulfilling all the conditions prescribed u/s 12AA of the Act and Rules thereon. Needless to state, the assessee trust should provide all the required details as prescribed u/s 12AA of the Act for granting registration by the Ld. CIT(E).

6. For this limited purpose, the appeal is set aside to the file of the Ld. CIT(E). Thus the appeal is allowed for statistical purposes.

7. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

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

Sd/-
(WASEEM AHMED)
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