

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR  
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**168/Jodh/2018**  
(ASSESSMENT YEAR- 2008-09)

Noble Educational Society, Kuwada Road Behind Sophia School, Suwana Road, Bhilwara-311001.	Vs	The ITO (Exemption), Ajmer
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN NO. AAATN5198G</b>		

<b>Assessee By</b>	None
<b>Revenue By</b>	Shri S.M. Joshi, JCIT-DR
<b>Date of hearing</b>	22/03/2023
<b>Date of Pronouncement</b>	24 /03/2023

**ORDER**

**PER: SHRI MANISH BORAD, AM**

This is an appeal filed by the assessee against the order of the Id.  
CIT(A), Ajmer dated 02-01-2018 for the assessment year 2008-09  
raising therein following grounds of appeal:-

‘1. Your goodself is requested to grant relief in the Original Assessment order passed by Ld. Assessing Officer on AOP basis for which Assessee has been granted 12AA Registration under IT Act,1961 bearing Registration No. AAATN5198G/08/17-18/S-174/12AA/ITAT dated 27/11/2016, enclosed herewith the copy of ITAT Order along with Registration Certification U/s12AA of IT Act,1961 issued by ur goodself in our case.(Encl Annex.D)-(Page No.11 to 17)

2. Now Through this Appeal we request to rectify Original Assessment order passed by Ld. AO in light of 12AA Registration Certificate issued by ur goodself in our case, we request following relief in the Original Assessment Order passed by Ld. AO in our case as under :

Provisions of Law Regarding 12AA Registration is as under:

That as per amended provisions of Income Tax Act,1961 under 12AA after the latest amendment in Sec 12 AA , the position of Law stands as under :-"In case where a trust or institution has been granted registration under section 12AA of the Act, the benefit of sections 11 and 12 shall be available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been

granted." (In our Case Registration Effective Date is 01/04/2015. & date of Assessment Order in 30/03/2016) the grounds of appeal at the time of hearing.”

2.1 At the time of hearing, none is present on behalf of the assessee. Therefore, the Bench decides to dispose off the appeal of the assessee after hearing the ld DR qua the materials placed on record. Brief facts of the case are that the assessee is engaged in the field of educational society and the AO framed assessment u/s 148/144 of the Act treating the assessee society neither registered u/s 12A(a) of the Act nor having approval of the Chief Commissioner of Income Tax u u/s 10(23) (C)(vi) of the Act . However, before the ld CIT(A) also, the assessee society failed to get any relief as the ld.CIT(A) has confirmed the action of the AO by observing as under:-

“3.0 It is seen from Form No. 35 that the appeal has been filed on 05-05-2016. The date of service of demand notice as mentioned in Form 35 is 04-04-2016. Thus, it is clear that the appeal has not been presented within 30 days from the date of service of notice of demand. The appellant has filed an application for condonation of delay dated 04-05-2016 stating as under:-

“Most respectfully, the petitioner submits as under:-

1. That the assessment u/s 148 /144 of IT Act, 1961 was served on the assessee on 01-04-2016 and the appeal was due to be filed on 03-04-2016.
2. That the delay of 1-7 days in filing of appeal is requested to be condone as order was passed u/s 148/144 of IT Act 1961.
3. That your President of the Trust Shri Rajesh Karnawat was out of station from 25-04-2016 to 03-05-2016 which has caused the delay in filing of said appeal.
4. Our goodself is empowered u/s 249(3) of the Act to condone delay in filing appeal.”

3.1 I have gone through the appeal filed by the appellant carefully. The appellant has not submitted any documentary evidence to substantiate the claim made in the application. Therefore, the same cannot be accepted. I am of the considered view that appellant did not have sufficient cause for not furnishing the appeal within the period specified u/s 249(2). Therefore, the appeal filed by the appellant is not admitted and the appeal is dismissed as not admitted.

4.0 In the result, the appeal is dismissed.”

However, the ld. DR brought to our notice that the order of the ld. CIT(E) denying exemption u/s 12AA of the Act was challenged before the this Tribunal vide order dated 22-05-2017 in ITA No. 317/Jodh/2016 in assessee's own case wherein registration was granted by this Tribunal by observing as under:-

“4. We have heard the rival contentions and perused the facts of the case. Learned Counsel for the assessee argued that the assessee is carrying out the charitable activities in

providing primary/ elementary, Secondary & Senior Secondary Educational to all students of all sectors of the society alongwith granting relief / free education to scheduled castes, scheduled tribes and weaker classes of the society. It is not disputed that society is running both Education and Hostel facilities for the students. Society is affiliated with CBSE Board and students are undergoing education in many spheres as per course curriculum. The assessee trust is claiming exemption since 1999 by filing of returns of income regularly and no defect in the same has been pointed out. It is not disputed that society is incorporated and the registration certificate issued by the Registrar of Society vide certificate dated 26-10-1999. Learned CIT(E) on the basis of the report of the Assessing Officer and the order of the Assessing Officer for the Assessment Year 2012-13 and 208-09 wherein certain bank account was found to be undisclosed in the books of account did not allow the registration u/s 12AA of the Act.

5. In fact the assessee has submitted his reply which is part of the order of learned CIT(E), reproduced hereinabove that the said bank account contains cash deposited by its franchisees and each and every penny have been accounted in the books of account. The main objects and activities of the society has never been found defective and during the impugned year also the learned CIT has not pointed out any defect in the objects and the activities of the society that they are not charitable.

6. In the circumstances and facts of the case, learned CIT(E) erred in not granting the registration u/s 12AA of the Act and therefore his order is directed to be quashed and hereby directed to grant the registration u/s 12AA of the Act to the assessee as applied for.

In the result, the appeal of the assessee is allowed.”

From the perusal of the above findings of the Tribunal, we find that the assessee society has been granted registration u/s 12AA of the Act. Hence, in view of the above deliberation, we restore the issues raised by the assessee to the file of the Id CIT (A) to decide the issues

afresh in accordance with law. Thus the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open Court on 24 /03/2023.

Sd/-

(KUL BHARAT)  
JUDICIAL MEMBER

Sd/-

(MANISH BORAD)  
ACCOUNTANT MEMBER

Dated : 24/03/2023

*\*Mishra*

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The DR
5. Guard File

Assistant Registrar

Jodhpur Bench