

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM**

आयकर अपील सं./ITA No.371/SRT/2022

(Virtual Court Hearing)

ST. John Ambulance Associations, 101, 'Shriji Niwas', A to Z Bldge, Mansukh Tower Lane, Opp. Dhiraj Sons, Athwagate, Surat – 395001.	Vs.	The CIT(Exemption), Ahmedabad.
(Appellant)		(Respondent)
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AADTS1360C		

Appellant by	Shri Hiren Vepari, CA
Respondent by	Shri Ashok B. Koli, CIT(DR)
Date of Hearing	06/02/2023
Date of Pronouncement	21/03/2023

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee is directed against the order passed by the Learned Commissioner of Income Tax (Exemption), Ahmedabad [in short “the ld. CIT(E)”], in Appeal No. CIT(Exemption), AHMEDABAD/2022-23/12AA/12195, dated 31.10.2022.

2. The grounds of appeal raised by the assessee are as follows:

“(1) On the facts and circumstances of the case, the CIT (Exemption) was not justified in rejecting application u/s. 12AB of the Act.

(2) The appellant having furnished all particulars, the CIT (Exemption) ought to have granted the registration.

(3) The CIT (Exemption) ought not to have been driven by extraneous considerations.

(4) The appellant craves leave to add, alter or vary any of the grounds of appeal.”

3. Succinct facts are that an application for registration of the trust u/s 12AB of the Income Tax Act, 1961 was filed by assessee trust on 05/04/2022 in Form No. 10AB under Rule 17A of the Income Tax, Rules, 1962. The Ld. CIT(E) observed that the Rule 17A(1) of the Income Tax Rules prescribes the different

forms to be filed for making application under various sub-clauses of clause (ac) of sub-section (1) of section 12A of the Act for registration of a charitable or religious trust or institution and Rule 17A(1), which stipulates as under.

“17A(1) An application under sub-clause (i) or sub-clause(ii) or sub-clause(iii) or sub-clause(iv) or sub-clause(v) or sub-clause(vi) of clause (ac)of subsection (1) of section 12A for registration of a charitable or religious trust or institution (hereinafter referred to as 'the applicant') shall be made in the following Form, namely:-

1. Form No. 10A in case of application under sub-clause (i) or (vi) of clause (ac)of sub-section (1) of section 12A to the Principal Commissioner or Commissioner authorised by the Board; or

2. Form No. 10AB in case of application under sub-clause (II) or (III) or (iv) or (v) of clause (ac) of sub-section (1) of section 12A to the Principal Commissioner or Commissioner under the said clause.”

4. Further the Rule 17A(2) of the Income Tax Rules lists the documents which shall be attached or submitted with the application made in Form No.10A or 10AB under Rule 17A(1) of the Income Tax Rules, which stipulates as under:

“(2) The application under sub-rule (1) shall be accompanied by the following documents, as required by Form Nos.10A or 10AB, as the case may be, namely:—

- (a) where the applicant is created, or established, under an instrument, self-certified copy of such instrument creating or establishing the applicant;*
- (b) where the applicant is created, or established, otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant;*
- (c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;*
- (d) self-certified copy of registration under Foreign Contribution (Regulation) Act, 2010(42 of 2010), if the applicant is registered under such Act;*
- (e) self-certified copy of existing order granting registration under section 12A or section 12AA or section 12AB, as the case may be;*
- (f) self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA or section 12AB, as the case may be, if any;*
- (g) where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the applicant relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;*

- (h) *where a business undertaking is held by the applicant as per the provisions of sub-section (4) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of such business undertaking relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period;*
- (i) *where the income of the applicant includes profits and gains of business as per the provisions of sub-section (4A) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of such business relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period;*
- (j) *self-certified copy of the documents evidencing adoption or modification of the objects;*
- (k) *note on the activities of the applicant.”*

5. Therefore, Ld. CIT(E) issued notice on 25/03/2022 and sent through ITBA on the e-mail id given by the applicant trust in its online application, with a request to furnish detailed note on the activities actually carried out by the trust as well as certain details/documents as mentioned therein. The Ld. CIT(E) noted that the above-mentioned inquiry about the actual activities of the trust is necessary in view of the mandatory provisions of the procedure for registration u/s 12AB of the IT. Act, 1961, which is reproduced below:

“12AB. (1) *The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of [section 12A](#), shall,—*

- (a) *where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;*
- (b) *where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,—*
 - (i) *call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—*
 - (A) *the genuineness of activities of the trust or institution; and*
 - (B) *the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;*

- (ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),—
- (A) pass an order in writing registering the trust or institution for a period of five years; or
- (B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard;
- (c) where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.”

6. In response to the above notice, the assessee submitted its reply on 15.09.2022. However, the Ld. CIT(Exemption) has rejected the contention of the assessee and held that assessee has failed to file documentary evidence to enable to satisfy about the genuineness of its activities and to verify these activities are in consonance with its objects. Therefore, looking to the above facts, the assessee's application filed in Form No.10AB for the registration under section 12AB of the I.T. Act, 1961, was rejected by Ld. CIT(E).

7. Aggrieved by the order of the Ld. ld. CIT(E), the assessee is in appeal before us.

8. Shri Hiren Vepari, Learned Counsel for the assessee submitted before us paper book and stated that each and all documents were furnished before the ld. CIT(E), however, without considering the assessee's submissions and documents, the ld CIT(E) has denied the registration. The Ld. Counsel submitted a chart before the Bench and has demonstrated about the questions asked by the Ld. CIT(E) and the compliance made by the assessee during the proceedings before him, which is reproduced below:

Appellants response

i. The trustees have made **full compliance** to first DIN & Notice dated 25.08.2022 on 15.09.2022 vide submission No.TE-400.

ii. Complete details of Notices issued and compliances made are as under:

Sr. No.	DIN & Notice No./dated	Compliance Required by	Date of Compliance/ Letter No./e- Proc. R. Ack. No.
1	ITBA/EXM/F/EXM43/2022-23/ 1044934865(1)/ dt.25.08.2022	09.09.2022	(1) 09.09.2022/TE-390/ 480713521090922 (Sought Adjournment) (2) 15.09.2022/TE-400/ 494962321150922 (Full Compliance)
2	ITBA/EXM/F/EXM43/2022-23/ 1046264802(1) dt.12.10.2022 (Reminder only of DIN & Notice dt.25.08.2022)	18.10.2022 (Trustees became aware only on 25.10.2022)	25.10.2022/TE-469/ 748110341251022 (Giving reference of earlier submission No.TE-400 of full compliance)

i. Please note, that **when full compliance to Notice dated 25.08.2022 was made on 15.09.2022, books of accounts of the Trust were under the process of audit for the financial year 2021-22 since deadline for Audit was 30-9-2022.**

ii. Therefore, the Audit Report was not finalised and therefore, the assessee submitted audited accounts for the F.Y. 2018-19 to F.Y.2020-21.

ii. **Audit report for the F.Y.2021-22 was finalised on 25-9-2022.**

v. Naturally, when the full compliance was made, last 3 years' audited accounts naturally would have included accounts for the F.Y. 2018-19 to F.Y.2020-21.

v. **Please note that in the last portion of para 2 of Letter No.TE-469 dated 25.10.2022, it has been clearly stated that "However, if you require any further details kindly let the trustees now to enable them to comply."**

vi. Besides, on 25-10-2022, the appellant remained under the bona fide belief that having made full compliance on 15-9-2022, nothing remained to be complied.

i. **There was no requirement to provide a notarised copy in the Notice.**

ii. Accordingly, on 15.09.2022 vide para 5 of submission No.TE-400, a self-certified copy of Revised Constitution certified by the Hon. Secretary of the appellant, Dr. Mukesh P Jagiwala is submitted.

i. Please note that 'St. John Ambulance' is a global charitable organisation working under Red Cross Society for first aid and emergency medical services in 16 countries (primarily commonwealth countries). There are over 5 lacs volunteers globally that render these services.

ii. India is one of the countries under the commonwealth nations that has chapter of St. John Ambulance. Therefore, the appellant Trust was constituted as 'St. John Ambulance Association', falling within the India Chapter in the District of Surat. Only by dividing the functionality geographically can St. John Ambulance carry out the charitable work efficiently.

iii. More can be found on https://en.wikipedia.org/wiki/St_John_Ambulance.

iv. Therefore, when the Hon'ble Secretary signed as 'St. John Ambulance (India), Surat District', he signed as Trustee of 'St. John Ambulance Association' (appellant).

v. The assessee operates in Surat District. It is nothing but a chapter or sub-set of larger 'St. John Ambulance (India)'.

vi. **Since no query was raised on this front, no explanation could be rendered during the registration proceedings.**

vii. In any case, view taken for rejecting registration is hyper-technical. ✓

9. Therefore, Ld. Counsel contended that assessee has made the compliance and furnished details, documents and explanation asked by the Ld. CIT(E), therefore the registration should not be denied to the assessee-trust.

10. On the other hand, Ld. Departmental Representative (Ld. DR) for the Revenue submitted that no doubt the assessee has submitted the entire documents and details before the Ld. CIT(E), however, assessee could not establish the genuineness of the activities of the trust, therefore matter may be restored to the file of the Ld. CIT(E) for examination of genuineness of the activities of the trust. If the activities of the trust are genuine, then Ld CIT(E) may grant registration in accordance with law.

11. We have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the Ld. CIT(E) and other material brought on record. We note that assessee has submitted before us paper book containing the documents and evidences, which were submitted before the Ld. CIT(E). The Ld. CIT(E) did not find any mistakes and errors in these details and documents except to say that documents filed by the assessee are not acceptable/not complete, without pointing out that why these documents and details are not acceptable. What type of documents and details were not filed by the assessee-trust and what type of activities of the assessee - trust are not genuine, have not been specified by Ld CIT(E). It is like giving a dog ill name and hang him, without any reason, which according to us is not a fair practice of the Department.

12. We are of the opinion that so far as grant of registration u/s 12AB of the Act is concerned, the jurisdiction of Ld. CIT(E) is only to verify the objects of the institution and genuineness of the activities, meaning thereby that he has to satisfy himself that objects are charitable in nature and activities being carried on or to be carried on are genuine, meaning thereby that they are in consonance for achieving of charitable objects and nothing else. Thus, we note that despite of filling entire documents and details before the Ld. CIT(E), the Ld. CIT(E) has failed to point out

any mistake or any error or genuineness of these documents. Therefore, we are of the view that there is no default on the part of the assessee to submit required details and documents before the Ld. CIT(E). Since the assessee has submitted entire details, documents and evidences for registration under section 12AB of the Act and therefore we note that the application filed by the assessee in Form No.10AB for registration under section 12AB of the Act should be accepted by the Ld. CIT(E) after proper verification of these documents and details and registration would have been granted to the assessee-trust, however, ld CIT(E) has failed to do so.

13. Therefore, considering the above facts and circumstances, we direct the Ld. CIT(E) to examine the documents, details and evidences filed by the assessee and grant the registration under section 12AB of the Act in accordance with law. For statistical purposes, the appeal of the assessee is treated to be allowed.

14. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 21/03/2023 by placing the result on the Notice Board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 21/03/2023

SAMANTA

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat