

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

BEFORE SHRI PAWAN SINGH, JM & DR. A.L.SAINI, AM

आयकर अपील सं./ITA No.198/SRT/2023

(Virtual Court Hearing)

Vadasada Charitable Trust C/o 701 7 th Floor Meridian Towers, Ring Road, Udhna Darwaja, Surat- 395002	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad, Aayakar Bhawan, Ashram Road, Ahmedabad-380009
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AADTV 6713 C		
(अपीलार्थी /Assessee)		(प्रत्यर्थी/ Respondent)

निर्धारिती की ओर से /Assessee by : Shri Kishorbhai R Gheewala, C.A

राजस्व की ओर से /Respondent by : Shri Ashok B. Koli, CIT-DR

सुनवाईकीतारीख/ **Date of Hearing** : 13/06/2023

घोषणाकीतारीख/**Date of Pronouncement**: 27/06/2023

आदेश / O R D E R

PER DR. A. L. SAINI, ACCOUNTANT MEMBER:

Captioned appeal filed by the assessee, is directed against the order passed by the Commissioner of Income-Tax (Exemption), Ahmedabad ["Ld.CIT(Ex)' for short], vide order dated 30.12.2022.

2. At the outset, we note that appeal filed by the assessee-trust is barred by limitation of twenty-three days. The assessee-trust moved a petition for condonation of delay, requesting the Bench to condone delay of 23 days.

The contents of the petition for condonation of delay are reproduced below:

"1) The Assessee has received order of rejection of registration Dt. 30.12.2022 on or around 31.12.2022 and therefore the appeal ought to have been filed by 28.02.2023.

2) The appeal is being filed on 23.03.2023 & hence, late by about 23 days,

3) The assessee had in the meantime applied a fresh for permanent registration of the trust on Dt.21.01.2023 vide Receipt No.929475360210123.

4) The assessee had lost sight of the fact that in case of the fresh application, the registration would be granted from the date of registration only, and not from the date of earlier application. So, the assessee is advised to file appeal against rejection order also.

5) There was no mala fide intention on the part of the assessee in delay filing of appeal.”

3. On the other hand, Ld. CIT-DR for the Revenue submitted that assessee-trust has not explained sufficient reasons to condone the delay. Therefore, delay should not be condoned.

4. We have heard both the parties on this preliminary issue. We have gone through the events mentioned in the condonation petition which clearly states that there was no failure on the part of assessee and there was no *mala fide* intention of the assessee to file the appeal late. The assessee was advised to file fresh registration application before Id CIT(Exemption).The assessee had lost sight of the fact that in case of the fresh application, the registration would be granted from the date of registration only, and not from the date of earlier application. So, the assessee was advised to file appeal against rejection order also and this process has resulted into delay of 23 days. We are of the view that provisions of law have to be adhered strictly and that one cannot be allowed to act in leisure and make a mockery of enacted law, because law and provisions are laid down to benefit both sides of litigation. Be that as it may, we have to do justice and the Hon’ble Supreme Court in the case of Collector, Land Acquisition vs Mst. Katiji and others , reported in 167 ITR 471, (1988 SC 897) (7) observes

“4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.”

5. When we weigh these two aspects then the side of justice becomes heavier and casts a duty on us to deliver justice. We note that the reasons given in the affidavit for condonation of delay were convincing and these reasons would constitute reasonable and sufficient cause for the delay in

filing this appeal. We, therefore, condone the delay and admit the appeal for hearing.

6. At the outset, Ld. Counsel for the assessee submitted that assessee has applied for fresh registration and required documents were filed before Ld. CIT(Exemption) including trust deed and objects of the trust. However, regarding activities of the assessee-trust, the assessee has not filed any documents and evidences before the ld CIT(Exemption). The ld Counsel stated that now the assessee is ready to submit the relevant documents before Ld. CIT(Ex) about activities of the assessee-trust, therefore one more opportunity should be granted to the assessee- trust to plead his case before ld CIT(Exemption).

7. On the other hand, Ld. CIT-DR for the Revenue submitted that assessee-trust has not explained the objects and activities of trust before Ld. CIT(Exemption). Therefore, assessee's application should be rejected.

8. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position. We note that assessee-trust could not file the relevant documents and evidences before Ld. CIT(Exemption), about activities of the assessee-trust, therefore ld CIT(Exemption) has denied the registration. Now the assessee-trust is ready to submit the relevant documents and evidences, about activities of the assessee-trust, therefore, we are of the view that one more opportunity should be granted to the assessee-trust to plead his case before ld CIT(Exemption). We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(Exemption) for de novo

adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the Id. CIT(Exemption) and remit the matter back to the file of the Id. CIT(Exemption) to adjudicate the issue afresh on merits to grant registration in accordance with law. The assessee-trust is also directed to file the required documents and evidences before Id CIT(Exemption), as and when called by Id CIT(Exemption). For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order pronounced on 27/06/2023 by placing the result on the notice board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

सूत /Surat/दिनांक/ Date: 27/06/2023
Dkp Outsourcing Sr.P.S.

Copy of the Order forwarded to

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

// TRUE COPY //

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat