

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 285/SRT/2023 (AY: 2022-23)
(Hearing in Virtual Court)

Shri Suryapur Sanscrit Pathshala Mandal, Pathshala-Ni-Sheri, Amliran, Surat-395001. PAN: AABTS 2852 B	Vs.	Commissioner of Income Tax (Exemptions), Ahmedabad, Room No. 60, Floor-6, aayakar Bhawan (Vejalpur), Nr. Sachin Tower, 100 Foot Road, Anandnagar-Prahladnagar Road, Ahmedabad-380015.
APPELLANT		RESPONDEDNT

Assessee by	Shri Hiren Vepari, C.A.
Department by	Shri Ashok B. Koli (CIT-DR)
Date of Institution of Appeal	24/04/2023
Date of hearing	11/07/2023
Date of pronouncement	11/07/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee-trust is directed against the order of learned Commissioner of Income Tax, (Exemptions), Ahmedabad [in short the Id. CIT(E)] dated 30/03/2023 in rejecting the application of assessee-trust for registration under Section 12AB of the Income Tax Act, 1961 (in short, the Act). The assessee has raised following grounds of appeal:

- “(1) *On the facts and circumstances and in law, the learned Commissioner of Income (Exemption) was not justified in rejecting application u/s 12A particularly when the appellant complied with all the details as also rendered evidences of activities undertaken in consonance with the objects..*
- (2) *The learned Commissioner of Income (Exemption) was driven by extraneous considerations while rejecting application.*

- (3) *Rejecting application for registration for want of last audit report was too technical a view, particularly when the appellant otherwise satisfied with the genuineness of the activities and the objects as specified in section 12AB(10(b)(i)(A).*
- (4) *The learned Commissioner of Income (Exemption) ought to have taken a judicious and liberal view rather than a hyper technical view.*
- (5) *The appellant craves leave to add, alter or vary any of the grounds of appeal.”*

2. Brief facts of the case are that the assessee-trust filed an application for registration under Section 12AB of the Act in Form 10AB in accordance with Rule 17A of the Income Tax Rules, 1962, (in short, the Rules) on 28/09/2022. The assessee furnished/ uploaded required details at the time of filing application electronically/online. On receipt of such application, the Id. CIT(E) issued notice dated 08/12/2022 and subsequently on 30/12/2022 for requiring the assessee for filing certain other details including the Form No. 10AB, certified copies of annual accounts of three years preceeding to the filing of application. The assessee filed required details alongwith accounts for 2019-20 and 2020-21. No accounts for F.Y. 2021-22 was furnished. The Id. CIT(E) on considering such details, noted that in absence of accounts for F.Y. 2021-22, the genuinenity of activities could not be verified vis a vis object of assessee. Even the verification of object as per constitution deed activities could not be verified. The Id. CIT(E) was of the view that for granting registration under Section 12AB of the Act, he was required to specify about genuineness of activities of the trust or institution and those activities are in consonance of the object of the trust or institution,

thus in absence of required details, the Id. CIT(E) rejected the application vide impugned order dated 30/03/2023. Aggrieved by the order of Id. CIT(E), the assessee has filed present appeal before this Tribunal.

3. We have heard the submissions of learned Authorised Representative (Id. AR) of the assessee submits and the learned Commissioner of Income Tax-Departmental Representative (Id. CIT-DR) for the revenue. The Id. AR of the assessee submits that initially the assessee furnished complete details alongwith Form 10AB in accordance with Rule 17A of the Rules while filing/uploading the application for registration. The Id. CIT(E) in para 7 of the impugned order, has accepted that the assessee-trust has uploaded copy of institution deed (instrument of creation) alongwith details of registration with Charity Commissioner. The Id. CIT(E) also accepted that the assessee has furnished accounts for F.Y. 2019-20 and 2020-21 as recorded in para 8 of impugned order. However, the assessee could not furnish the accounts for F.Y. 2021-22 due to paucity of time. The assessee trust undertake to furnish further required details, including the accounts for FY 2021-22, before the Id. CIT(E) for its satisfaction for examining the genuinenity of activities in accordance with object of trust. The Id. AR of the assessee submits that they have very good case on merit and is likely to succeed if one more opportunity is given to furnish the required details and to reconsider their application afresh.

4. On the other hand, the Id. CIT-DR for the revenue supported the order of Id. CIT(E). The Id. CIT-DR submits that the assessee has not furnished required details and evidences qua the activities if any carried out in consonance with the object of the assessee. In absence of such information and evidence, the Id. CIT(E) rightly rejected the application of assessee for registration under Section 12AB of the Act.
5. We have considered the submissions of both the parties and have gone through the order of Id. CIT(E) carefully. We find that there is no dispute that the assessee furnished copy of trust deed/instrument of trust, details of registration with charity Commissioner and audited accounts for F.Y. 2019-20 and 2020-21. Only audited accounts for F.Y. 2021-22 was not furnished as required by Id. CIT(E). The Id. AR of the assessee submits that they were given very short time to make response in the show cause notice and they are still ready to furnish required details including audited accounts for F.Y. 2021-22 and he is ready to furnish such accounts. Considering the fact that the assessee has raised specific grounds of appeal and made submission that Id CIT(E) ought to have taken a liberal view and they could not furnish accounts for F.Y. 2021-22, therefore, we deem it appropriate to restore the issue back to the file of Id. CIT(E) to allow the assessee to file requisite details including audited accounts for F.Y. 2021-22 and to pass the order afresh in accordance with law. Needless to direct that before deciding the

application afresh, the Id. CIT(E) shall grant opportunity of hearing including to make further submission to prove the object of assessee-trust and its activities. In the result, grounds of assessee's appeal is allowed for statistical purposes.

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

Order pronounced on 11/07/2023 in open court.

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 11/07/2023

**Ranjan*

Copy to:

1. Assessee –
2. Revenue -
3. CIT(E)
4. DR
5. Guard File

By Order

Sr. Private Secretary, ITAT Surat