

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, HON'BLE JUDICIAL MEMBER AND
DR. A. L. SAINI, HON'BLE ACCOUNTANT MEMBER
(Physical Hearing)**

Sl. No.	ITA No.	Asst. Year	Name of Appellant(s)	Name of Respondent(s)
1.	213/SRT/2023	--	Surat Maisuriya Bhatia Nayi Panch, C/o. Alpeshbhai S. Maisuraia, Maa Jwaladevi Vishva Shakti Dham, Opp. Chandrakala Dyeing Mill, Near Sub. Jain, Khatodara, Surat – 395002. PAN: AABTS3166L	The CIT(Exemption), Ahmedabad
2.	264/SRT/2023	--	Shri Pardi Vaishnav Kanthibadh Mandir, At Post Damni Zampa, Taluka: Killa Pardi, Killa Pardi, Valsad - 396125 PAN: AADTS9963P	The CIT(Exemption), Ahmedabad
3.	267/SRT/2023	--	Shri Dashabaj Vanik Gnyati Mandal, 2, Jay Chamber, Opp. Surya Flat, Anand Mahal Road, Adajan, Surat – 395009. PAN: AAHTS6578G	The CIT(Exemption), Ahmedabad
4.	269/SRT/2023	--	Shree Mahavir Swami Jain Dahearasar, C/o. Narendrabhai Lallubhai Sukhadia, “Prabhu Villa”, Chandla Gali, Near Gopipura Jain School, Surat – 395003. PAN: AAETS4103L	The CIT(Exemption), Ahmedabad
5.	270/SRT/2023	--	Surat Vishanagar Vanik Gnati, C/o. Navin Bookseller, 502, RLB Park, Opp. Surat General Hospital, Balaji Road, Surat – 395003. PAN: AABTS2858M	The CIT(Exemption), Ahmedabad
6.	271/SRT/2023	--	Shri Modh Visha Gaubhuja Vanik Gnyati Milkat Trust, C/o. Nayanbhai N. Bharattia, 1004, Falcon Avenue, Parle Point, City Light Road, Surat – 395007. PAN: AAATM3831D	The CIT(Exemption), Ahmedabad

Date of Hearing:	05/07/2023
Date of Pronouncement:	17/07/2023
Appellant by:	Shri Hiren Vepari, CA
Respondent by:	Shri S. M. Keshkamat, CIT(DR)

आदेश / O R D E R

PER DR. A. L. SAINI, AM:

Captioned six appeals filed by different assessee-trusts, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Exemption), [in short ‘the Ld. CIT(E)’], wherein the Ld. CIT(E) has rejected the application filed by assessees in Form No. 10AB for registration under registration 12AB of the Act, on account of mismatch of assessee’s trust name, and on account of genuineness of activities of the assessee’s trusts.

2. Since, the issues involved in all these appeals are common and identical; therefore, these appeals have been clubbed and heard together and are being disposed of by this consolidated order for the sake of convenience and brevity. The facts as well as the grounds narrated in assessee’s appeal, in ITA No.213/SRT/2020 (Surat Maisuriya Bhatia Nayi Panch), have been taken into consideration for deciding these appeal *en masse*.

3. The grounds of appeal raised by the assessee in lead case (ITA No. 213/SRT/2023, are as follows:

“(1) On the facts and circumstances and in law, the learned Commissioner of Income-tax (Exemption) was not justified in rejecting application u/s 12A, particularly when the appellant complied with all the details as also rendered evidence of activities undertaken in consonance with the objects.

(2) The learned Commissioner of Income-tax (Exemption) was driven by extraneous considerations while rejecting application.

(3) The learned Commissioner of Income-tax (Exemption) ought to have taken a judicious and liberal view rather than a hyper technical view.

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

4. Brief facts of the issue in dispute are stated as under. The assessee-trust filed an application for registration of the trust u/s 12AB of the Income Tax Act, 1961, on 26.09.2022, in Form No. 10AB under Rule 17A of the I.T. Rule, 1962. Therefore, a notice was issued to the assessee on 10.12.2022 with a request to furnish detailed note on the activities actually carried out by the trust as well as certain details/documents as mentioned in the notice of Id CIT(E). The Id CIT(E) noted that inquiry about the actual activities of the trust was necessary in view of the mandatory provisions of the procedure for registration u/s 12AB of the Income Tax Act, 1961. However, in response to the said notice, the assessee has furnished part detail/document, before Id CIT(E). Therefore, one more opportunity was given to the assessee by issuing another notice on 02/01/2023 to furnish pending details. In response to the same, the assessee has furnished details/documents. From perusal of details and documents, available on records, it was observed by Ld. CIT(E) that the name of the applicant/assessee as per PAN is **“SURAT MAISURIYA BHATIA NAYI PANCH”**, whereas in the copy submitted of Trust deed, in Gujarati the name appearing therein is **“MASURIYA BHATIA NAYI PANCH”**. Similarly, the certificate of Registration with the Charity Commissioner the name has been mentioned as **“MAHESURIYA BHATIA NAYI PANCH SURAT”**. There is obvious mismatch in name, as per PAN database *vis-a-vis* Certificate of Registration and other documents, as detailed above and therefore it was incumbent on the part of the applicant/assessee to submit the reasons and explanation for the same. However, the applicant/assessee has not submitted any explanation in this regard.

5. The Ld. CIT(E) also noted that no verification of the objects as per the trust deed with the activities could be carried out. Thus, the genuineness of the activities does not get established, due to lack of details/explanations submitted by the applicant/assessee. Then Id CIT(E) narrated the provisions of section 12AB of the Act, which makes, it very clear that before granting registration under this section, the Commissioner has to satisfy himself about the genuineness of the activities of the trust or institution and also he has to verify that these activities are in consonance with the objects of the trust or institution. Further, he has to ensure that other laws, for the purpose of achieving objects are complied with. For this, Id CIT(E) relied on the judgment delivered by the Hon'ble Supreme Court, in the case of ***Commissioner of Income-tax, Ujjain Vs Dawoodi Bohara Jamat Civil Appeal No. 2492 of 2014***, wherein the Hon'ble Apex Court while adjudicating similar provisions u/s 12AA of the Act has held as under:

“Section 12AA lays down the procedure to be followed by the Commissioner for grant or refusal of application for registration made under Section 12A. According to procedure so laid down, the Commissioner shall call for documents and information and conduct an enquiry to satisfy himself of the genuineness of the trust and upon reaching satisfaction of the charitable or religious nature of the objects and the authenticity of the activities of the trust, he would grant the registration. If he is not satisfied of the aforesaid, the request made in the application may be declined.”

6. The Ld. CIT(E) also noted that while adjudicating similar provisions u/s 10(23C) of the Act, the Hon'ble Supreme Court in the case of M/s New Noble Educational Society in Civil Appeal No. 3795 of 2014 has held as under.

“While considering applications for approval under Section 10(23C), the Commissioner or the concerned authority as the case may be under the second proviso is not bound to examine only the objects of the institution, To ascertain the genuineness of the institution and the manner of its functioning, the Commissioner or other authority is free to call for the audited accounts or other such documents for recording satisfaction where the society, trust or institution genuinely seeks to achieve the objects which it professes. The

observations made in American Hotel (supra) suggest that the Commissioner could not call for the records and that the examination of such accounts would be at the stage of assessment. Whilst that reasoning undoubtedly applies to newly set up charities, trusts etc. the proviso under Section 10(23C) is not confined to newly set up trusts – it also existing ones. The Commissioner or other authority is not in any manner constrained from examining accounts and other related documents to see the pattern of income and expenditure.”

7. Considering above facts and precedents, the Ld. CIT(E) noted that the applicant/assessee has failed to file documentary evidences to enable to satisfy about the genuineness of its activities and to verify these activities, whether these activities, are in consonance with its objects. Looking to the above facts, the Ld. CIT(E) was unable to arrive at the satisfaction of the genuineness of the activities. Hence, application filed in Form No. 10AB for the registration u/s 12AB of the IT. Act, 1961, was rejected by Ld. CIT(E).

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

9. The Ld. Counsel for the assessee submitted a chart which explains the mismatch in the name of the assessee-trust, which is reproduced below:

Sr	Issue in detail	Particulars	
I	Name of comparison (Para 7)	Name as per PAN	<u>Surat Maisuriya</u> Bhatia Nayi Panch
		Name as per Charity Commissioner Certificate (English + Gujarati)	<u>Maisuriya</u> Bhatia Nayi Panch <u>Surat</u>
		Name as per ITR	Surat Maisuriya Bhatia Nayi Panch
		Name as per Audit Report submitted to Charity Commissioner	Shri Maisuriya Bhatiya Nayee Panch
		Name as per PTR	<u>Surat maisuriya Bhatia Nayi Panch</u>
		Name as per Trust Deed	Gujarati – <u>Surat Maisuriya</u> Bhatia Nayi Panch English – <u>Surat Maisuriya</u> Bhatia Nayi Panch
II	Any other	The assessee has not	Full compliance was made vide letter

	<i>Issue (Para 8)</i>	<i>submitted requisite details.</i>	<i>dated 12.01.2023 against the only Notice issued dated 10.12.2022.</i>
III	<i>Case laws referred by CIT(E)</i>	<i>CIT – Ujjain vs Dawoodi Bohra Jamat, Civil Appeal No. 2492 of 2014 M/s New Nobel Education Society in Civil Appeal No. 3795 of 2014</i>	

A. Contentions of the appellant on name Mismatch

i. Para 7 of the order: name as per Charity commissioner registration certificate – incorrectly stated as “Mahesuriya Bhatia Nayi Panch” instead of “Maisuriya Bhatia Nayi Panch Surat”

ii. Name as per PAN matches with PTR. Charity commissioner registration certificate and Trust Deed. The only mismatch with Charity commissioner certificate is placing of word “Surat”

B. The CIT(E) could have sought clarification if he is not satisfied with the evidences furnished.

C. This should not have resulted in rejection of 12A Application.”

10. Therefore, Ld. Counsel contended that in sum and substance, the name of the assessee-trust is same. The assessee is an old trust and registered with charity commissioner therefore because of this minor mismatch in the name, the assessee-trust should not be denied for registration.

11. On the other hand, the Ld. Departmental Representative (Ld.DR) for the Revenue has primarily reiterated the stand taken by the Ld. CIT(E), which we have already noted in our earlier para and is not being repeated for the sake of brevity.

12. 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 the assessee trust is very old trust, and because of slight difference in the name of assessee, in various documents should not be resulted into disentitlement from getting

registered under section 12AB of the Act. Therefore we are of the view that the name mentioned in the certificate of registration with the charity commissioner as **“Mahesuriya Bhatia Nayi Punch Surat”** should be treated as correct name. Therefore, we direct the assessee to get rectified the name in PAN, Trust deed and other income tax records, by filing appropriate application before various forms/Authorities. We also direct the Ld. CIT(E) to accept the name of assessee as **“Mahesuriya Bhatia Nayi Punch Surat”**. We direct the ld CIT(E) that registration of the trust should not be denied on this particular issue. We also state that the above issue is covered by the judgment of the Coordinate Bench of ITAT-Surat in the case of Shri Surat Shaher Patrakar Kalyan Nidhi, in ITA No. 72/SRT/2023, order dated 14.07.2023, wherein the Coordinate Bench held as follows:

“3. We have heard the submissions of learned Authorised Representative (ld. AR) of the assessee and the learned Commissioner of Income Tax-Departmental Representative (ld. CIT-DR) for the revenue. The ld. AR of the assessee submits that the assessee furnished complete details while filing/uploading required details at the time of filing of application. The ld. AR of the assessee submits that they have furnished copy of trust deed, registration of trust deed with Assistant Charity Commissioner, Surat bearing registration No. F/380/Surat. Same registration number is mentioned in all evidences furnished by the assessee. In all financial statement evidencing its activities the same number is reflected. The ld. AR of the assessee submits that due to different nomenclature by virtue of translation, name of assessee trust being “Shri Surat Shaher Patrakar Kalyan Nidhi” was translated as “Surat City Journalist Welfare Nidhi, Surat”. There is no change in the name of assessee trust rather due to mismatch of name in the translated version, the ld. CIT(E) rejected the application instead of considering it in a broad way. The ld. AR of the assessee submits that he has filed copy of PAN card of assessee, registration certificate with Assistant Charity Commissioner, Surat having registration No. F/380/Surat. The assessee is filing its return of income in the name of Shri Surat Shaher Patrakar Kalyan Nidhi. The audited financial statement also mentioned the registration number and the name of assessee trust. The trust deed also clearly mentioned the name of assessee trust. The ld. AR of the assessee submits that the application of assessee was rejected in a mechanical way without seeking any clarification or explanation from the assessee. The ld. AR of the

assessee submits that the assessee has fulfilled all the conditions and appeal of assessee may be allowed.

4. In alternative submission, the ld. AR of the assessee submits that the matter may be restored back to the file of ld. CIT(E) with direction to consider the application of assessee afresh and to pass the order in accordance with law.

5. On the other hand, the ld. CIT-DR for the revenue submits that there was a mismatch in various documents. Some where it is mentioned Shri Surat Shaher Patrakar Kalyan Nidhi whereas in the translated documents, the name was changed. The name cannot be changed in a translated form and due to mismatch, the application of assessee was rejected. The object and activities of the assessee was not verified by the ld. CIT(E). The ld. CIT-DR submits that in case, if the Bench of view that the assessee deserve any relief, the matter may be restored back to the file of ld. CIT(E) to examine the object of assessee and genuinenity of the activities undertaken by the assessee trust and to examine any other requirement, if the assessee fulfills such condition.

6. We have considered the submissions of both the parties and have gone through the order of ld. CIT(E) carefully. We find that the ld. CIT(E) in para 7 of his order, has accepted that the assessee has filed/ attached/uploaded trust deed and details regarding the registration with Charity Commissioner with translated copy. The ld. CIT(E) was of the view that there is a mismatch in the name of assessee in the translated copy of registration certificate, the name of assessee is mentioned as "Surat City Journalist Welfare Nidhi, Surat" whereas the name of assessee is "Shri Surat Shaher Patrakar Kalyan Nidhi". We find that such mistake is appeared due to change of language from Hindi to English otherwise the registration number and the object of assessee are not in dispute. Considering the fact that there is no change in the name of assessee and the change in the name is only because of translation. In our view, the name mentioned in a translated form is not fatal, therefore, we deem it appropriate to restore the issue back to the file of ld. CIT(E) reconsider the registration of assessee under Section 12AB of the act afresh and pass order in accordance with law. Needless to direct that before deciding the application afresh, the ld. CIT(E) shall grant opportunity of hearing including to make further submission to prove the object of assessee-trust and its activities. The assessee is also directed to file/furnish necessary information if so desired including by correcting the name in of trust in the translated copy of registration certificate in the same manner as mentioned in his registration certificate with Charity Commissioner.

7. In the result, grounds of assessee's appeal is allowed for statistical purposes."

13. Since the issue is squarely covered by the judgment of Coordinate Bench of ITAT-Surat in the case of Shri Surat Shaher Patrakar Kalyan Nidhi(supra), therefore, we also direct the Ld. CIT(E), to consider the name of the trust, in case of other assesseees, which is mentioned in their certificate of registration, with the charity commissioner.

14. We note that, as per ld CIT(E), the assessee- trust has not submitted entire details and documents before the Ld. CIT(E), therefore Ld. CIT(E) could not verify the objects and activities of the trust, therefore registration u/s 12AB of the Act, was denied by him. However, ld Counsel stated that entire details and documents were submitted before ld CIT(E). Before us, assessee has submitted documents and details in the paper book, which contains trust deed, balance sheets, bank statements, PAN and other documents related to income tax proceedings. We direct the Ld. CIT(E) to go through the relevant documents and evidences to verify the objects of the trust and activities of the trust and pass the order in accordance with law. The assessee is also directed to submit before the Ld. CIT(E), the documents and evidences, as and when called by ld CIT(E).

15. Since we have adjudicated the issue by taking lead case in assessee's appeal, in ITA No.213/SRT/2020 (***Surat Maisuriya Bhatia Nayi Panch***), the identical and similar issues are involved in other assesseees' appeals, namely, in ITA Nos. 264/SRT/2023, 267/SRT/2023 and ITA No.269/SRT/2023, ITA No.270/SRT/2023 and ITA No. 271/SRT/2023, therefore, our instant adjudication in the case of "***Surat Maisuriya Bhatia Nayi Panch***", shall apply *mutatis mutandis* in these other appeals also. Accordingly, these other appeals are also allowed for statistical purposes.

16. In the combined result, these six appeals filed by the different assesseees (in ITA Nos.213/SRT/2023, 264/SRT/2023, 267/SRT/2023 and in ITA Nos.269/SRT/2023, 270/SRT/2023 and 271/SRT/2023) are allowed for statistical purposes, in above terms.

Registry is directed to place one copy of this order in all appeals folder / case file(s).

Order is pronounced on 17/07/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

Surat / दिनांक/ Date: 17/07/2023

SAMANTA

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

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat