

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 364/SRT/2023 (AY: 2022-23)
(Hearing in Virtual Court)

Shri Kansara Gnyati Samasta Panch and Shri Bahucharaji Mataji Nu Mandir, C/o- Shri Ambika General Store, Limda Chowk, Killa Pardi, Valsad-396125. PAN: AAAAS 3329 P	Vs.	The Commissioner of Income Tax (Exemptions), Ahmedabad, Room No. 609, Floor-6, Aayakar Bhawan (Vejalpur), Nr. Sachin Tower, 100 Foot Road, Anandnagar-Prahladnagar Road, Ahmedabad-380015.
APPELLANT		RESPONDEDNT

Assessee by	Shri Hiren Vepari, CA and Ms Himali Mistri CA
Department by	Shri Ashok B. Koli (CIT-DR)
Date of Institution of Appeal	01/05/2023
Date of hearing	11/07/2023
Date of pronouncement	17/07/2023

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 28/03/2023 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 CIT(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 CIT(E) was driven by extraneous considerations while rejecting application.*
- (3) *The learned CIT(E) ought to have taken a judicial 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."*

2. Brief facts of the case are that the assessee is 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 29/09/2022 . The assessee furnished necessary details at the time of filing application electronically/online including copy of original registration alongwith memorandum of association/constitution deed/trust deed of assessee. The assessee also furnished copy of certificate of registration and PAN. On perusal of details of assessee in different documents, the Id CIT(E) found that as per PAN/ Form-10AB the name of assessee "SHRI KANSARA GNYATI SAMASTA PANCH AND SHRI BAHUCHARAJI MATAJI NU MANDIR", however in the notarized copy constitution of trust, the name of assessee is mentioned as "SHRI PARDI ANSARA SAMASTA PANCH AND SHRI BAHUCHARA MATAJI MANDIR, PARDI". Similarly, in the self-certified copy of certificate of registration the name is appearing as "SHRI KANSARA GNATI SAMAST PANCH AND BAHUCHARA MATAJI MANDIT". Thus, there is a mismatch in the name of PAN database vis-à-vis certificate of registration. The Id. CIT(E) was of the view that the assessee has not furnished required details. In absence of requisite details, the verification of object of trust could not be verified. The Id.

CIT(A) rejected the application of assessee for want of compliance by holding that Section 12AB of the Act makes it clear that before granting registration, he has to satisfy himself about genuineness of the activities of the trust and to verify that activities are in consonance with object of the trust or institution. 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 and the learned Commissioner of Income Tax- Departmental Representative (Id. CIT-DR) for the revenue. The Id. AR of the assessee submits that the assessee furnished complete details while filing/uploading required details at the time of filing of application. The Id. AR of the assessee submits that they have furnished copy of trust deed, registration of trust deed with Charity Commissioner, Surat bearing registration No. A1430-Surat. Same registration number is mentioned in all evidences of assessee trust about its activities. The Id. AR of the assessee submits that the assessee is a charitable and religious trust. The trust is in existence from 1954. There is no change in the object and activities of the assessee-trust. The assessee was granted provisional registration certificate under section 21A(1)(ac)(iii) on 24.02.2022. The name of trust was wrongly mentioned due to inadvertence as "*Shri Pardi Kansara Gnyati Samasta Panch and Shri Bahuchara Mataji Mandir Pardl*", which may be read as "*Shri Kansara*

Gnyati Samasta Panch And Shri Bahuchara Mataji Mandir Pardl'

different nomenclature due to inadvertence mistake. There is no change in the name of assessee trust rather due to mismatch of name due to inadvertence, the Id. CIT(E) rejected the application instead of considering it in a broad way. The Id. 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. A-1430-Surat. The assessee is filing its return of income by with PAN AAAAS 3329 P. The audited financial statement also mentioned the registration number and the name of assessee trust and PAN. The trust deed also clearly mentioned the name of assessee trust. The Id. AR of the assessee submits that the application of assessee was rejected in a mechanical way without seeking any clarification for explanation from the assessee. The Id. 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 Id. AR of the assessee submits that the matter may be restored back to the file of Id. CIT(E) with direction to consider the application of assessee afresh and to pass he order in accordance with law. The Id AR for assessee submits that he is ready to make correction in the Form-10AB and at other places with the satisfaction of Id CIT(E).

5. On the other hand, the Id. CIT-DR for the revenue submits that there was a mismatch in various documents. The assessee has given different name in Form-10AB, which is not matching with the name mentioned in registration certificate as well as in trust deed. The Id. CIT(A) while rejecting application due to mismatch of name in different evidences. The object and activities of the assessee was not verified by the Id. CIT(E). The Id. 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 Id. CIT(E) to examine the object of assessee and genuinity 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 Id. CIT(E) carefully. We find that the Id. 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 Id. CIT(E) was of the view that there is a mismatch in the name of assessee in PAN/Form-10AB and in copy of registration deed. We find that such mistake may be inadvertent otherwise the registration number and PAN and the object of assessee are not in dispute. The assessee is in existence from 1954 and registered under the provisions of Bombay Public Charitable Trust vide registration No. A-1430- Surat. Considering the fact that the

basic ground of rejection of application under section 12AB was mismatch in the name of assessee vis-à-vis name shown in PAN, Application under Form10AB, and Trust deed, which may due to inadvertence, otherwise the registration number with Charity Commissioner and PAN is not in dispute. The assessee was not given opportunity either to explain the mismatch or to get such mismatch to correct, thus, in our view, the assessee deserve an opportunity to correct the same, which otherwise not fatal, therefore, we deem it appropriate to restore the issue back to the file of Id. 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 Id. CIT(E) shall grant opportunity of correcting the mismatch in the name and also to allow to make further submission to prove the object of assessee-trust and its activities. The assessee is also directed to file/furnish any other necessary information if so desired. In the result, grounds of assessee's appeal is allowed for statistical purposes.

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

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

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER
Surat, Dated: 17/07/2023

**Ranjan*

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Copy to:

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

By Order

Sr. Private Secretary, ITAT Surat