

आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
Dr ARJUN LAL SAINI, ACCOUNTANT MEMBER

आ.अ.सं./ITA No.253/SRT/2023

(Hearing in Physical Court)

Prayosha Education Trust A/901, Jainam Residency, Opp.Pal Talav, Pal, Surat- 395003 PAN No. AACTP 2302 C	Vs	Commissioner of Income- tax(Exemption), Ahmedabad, Aayakar Bhavan, Anandnagar- Prahladnagar, Ahmedabad- 380015
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Dinesh V. Radadiya, Advocate & Shri Denish Mashroowala, C.A
राजस्व की ओर से /Revenue by	Shri Ashok B.Koli, CIT-DR
अपील पंजीकरण/Appeal instituted on	17.04.2023
सुनवाई की तारीख/Date of hearing	09.08.2023
उद्घोषणा की तारीख/Date of pronouncement	09.08.2023

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of Ld. Commissioner of Income-tax-(Exemption), Ahmedabad [for short to as “ld. CIT(E)”] dated 11.03.2023 in rejecting the application of assessee-trust for registration under Section 12AB of the Income Tax Act, 1961 (in short, the Act). The assessee raised the following grounds of appeal:

“1.0 Introduction

1.1 Prayosha Education Trust (her-in-after referred to as the ‘appellant’ is engaged in charitable activities “Run School of Ingenious 3G Academy” at C/o Matrubhumi Vidhyabhavan,

Navjivan Society, Dabholi Char-Rasta, Ved Road, Surat-395004, PAHN AACTP2302C.

1.2 *The appellant has filed application in Form No.10A under section 02-Sub Clause (vi) of Clause (ac) of Sub-section (1) of Section 12A dated 28th August, 2021 and get provisional Registration in Form No.10AC dated 24/09/2021 from AY 2022-23 to AY 2024-25.*

The appellant has filed application in Form No.10AB under section 02-sub Clause (iii) of clause (ac) of sub-section (1) of section 12A dated 12th September, 2022 and got order of rejection dated 11/03/2023.

- *Assessing Officer (CIT Exemption Ahmedabad) call document/clarification/information through 1st notice dated 10/12/2022, reply due dated 20/12/2022,*

General notice to al applicant and only 10 days time for reply

- *Assessing Officer (CIT Exemption Ahmedabad) call document/clarification/information through 2nd notice dated 03/01/2023, reply due dated 10/01/2023*

- ***General notice to al applicant and only 7 days time for reply***

Reasons for rejection

“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 institution and upon reaching satisfaction of the charitable or religious nature of the objects and the authenticity of the activities of the institution, he would grant the registration. If he is not satisfied of the aforesaid, the request made in the application may be declined.”

The details filed by the applicant are peripheral and the response is cryptic in nature and the applicant/assessee has not submitted crucial information in respect of its accounts. The Rule 17A(2) of Income Tax Rules requires the applicant/assessee too attach with the Form No.10AB filed, self certified copies of its annual accounts of three years for which such accounts have been made up, preceding the year in which the said application is made or from its inception, whichever period is less. As per details available on records, it is observed that the date of incorporation/creation/registration of applicant/assessee trust is 01.06.2012. however, the applicant/assessee has filed its accounts for FYs 2017-18, 2018-19, 2019-20 & provisional copy of 2020-21 and out of the above referred three years, the applicant assessee has not submitted its accounts for FY 2021-22. It's not the case that the applicant /assessee has been incorporated/created/registered in the current financial year and for which no accounts have been made up till date.”

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 12.09.2022. The assessee furnished necessary details at the time of filing application electronically/online. On receipt of such application, the ld. CIT(E) issued notice dated 10/12/2022 and subsequently on 03/01/2023 for requiring certain 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 F.Y. 2017-18, 2018-19 and 2019-20 and provisional accounts for FY 2020-21. No accounts for F.Y. 2021-22 was furnished. The ld. CIT(E) on considering such details, noted that in absence of accounts for F.Y. 2021-22. The ld CIT(E), held that verification of object as per constitution deed activities could not be verified. The ld. 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 ld. CIT(E) rejected the application vide impugned order dated 11/03/2023. Aggrieved by the order of ld. CIT(E), the assessee has filed present appeal before this Tribunal.

3. We have heard the submissions of learned Authorised Representative (ld. AR) of the assessee submits and the learned Commissioner of Income Tax-Departmental Representative (ld. CIT-DR) for the revenue. The ld. 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 on 12.09.2022. The ld. CIT(E) in para 7 of the impugned order, has accepted that the assessee as a trust has uploaded copy of constitution deed alongwith details of registration with Charity Commissioner. The ld. CIT(E) also accepted that the assessee has furnished accounts for F.Y. 2017-18, 2018-19 and 2019-20 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, before the ld. CIT(E) for its satisfaction for examining the genuinenity of activities in accordance with object of trust. The ld. AR of the assessee submits that they have very good case on merit and will certainly succeed if one more opportunity is given to furnish the required details and to reconsider their application afresh.

4. On the other hand, the ld. CIT-DR for the revenue supported the order of ld. CIT(E). The ld. 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 ld. 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 ld. 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. 2017-18 to 2019-20. Only audited accounts for F.Y. 2020-21 and 2021-22 were not furnished as required by ld. CIT(E). The ld. AR of the assessee submits that they are now ready to furnish required details including audited accounts for F.Y. 2021-22. Considering the fact that the assessee has raised specific grounds of appeal and made submission that they could not furnish accounts for F.Y. 2021-22 due to paucity of time, therefore, we deem it appropriate to restore the issue back to the file of ld. CIT(E) to allow the assessee to file requisite details of activities undertaken including audited accounts for F.Ys. 2020-21 and 2021-22. 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. In the result, grounds of assessee's appeal is allowed for statistical purposes.

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

Order pronounced in the court at the time hearing on Wednesday, 9th August,2023.

Sd/- (Dr ARJUN LAL SAINI) [लेखा सदस्य/ACCOUNTANT MEMBER]	Sd/- (PAWAN SINGH) [न्यायिक सदस्य JUDICIAL MEMBER]
Surat, Dated: 09/08/2023	
<i>Dkp. Out Sourcing Sr.P.S</i>	

Copy to:

1. Appellant-
2. CIT(E)
3. DR
4. Guard File

// True Copy //

By order

Sr. Private Secretary /Private
Secretary /Assistant Registrar,
ITAT, Surat