

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, JODHPUR
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No. 131/JODH/2023

(A.Y: 2023-24)

Maharana Pratap Khelgoan Society, Khelgaon Parisar, Udaipur-313001, Rajasthan.	Vs.	CIT (Exemption) Kailash Height, Lal Kothi, Tonk Road, Jaipur – 302015, Rajasthan.
PAN/GIR No. : AAGAM0274P		
Appellant	..	Respondent

Assessee by :	Shri Rakesh Lodha, CA.AR
Revenue by :	Smt. Alka Rajvanshi Jain, CIT DR

Date of Hearing	14.08.2023
Date of Pronouncement	16.08.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Exemption)(CIT(E)) passed u/sec12AB(1)(b) of the Act dated 24.02.2023. of the Act. The assessee has raised the following grounds of appeal:

- 1. The Ld. CIT (Exemption) erred in law as well as on facts of the case in rejecting an application u/s 12AB of the Act.*

2. The LdCIT (Exemption) further erred in law as well as on facts of the case in treating general purpose utility non charitable u/s 2(15) of the Act.

3. The Ld. CIT (Exemption) also erred in law as well as on facts of the case in considering the activities of appellant as business activities on the incorrect facts like operation of marriage garden and Entertainment Park by the appellant intention of earning profit, non-maintenance of separate books of accounts etc.

4. Accrual of interest income is incorrectly considered as fee charged from members by the appellant for the purpose of calculation of surplus percentage to conclude higher profits.

5 The appellant craves leave to add, alter, amend, modify and/or delete all or any of the grounds of the appeal on or before the final hearing, if necessary.

2. The brief facts of the case are that the assessee has filed the application in Form.no.10AB for registration u/s 12AB of the Act on 08.08.2022. Subsequently letters were issued to the assessee to submit the details. In compliance, the assessee has filed the explanations and submitted the information and details. Whereas, the CIT(E) is of the opinion that the objects are not charitable in nature and are for the purpose of making the profit. Further the

assessee is involved in business activities of running the marriage garden and entertainment park and dealt on the submissions of the assessee in the order and finally rejected the registration U/sec12AB of the Act vide order dated 24-02-2023. Aggrieved by the order, the assessee has filed an appeal before the Tribunal.

3. At the time of hearing, the Ld. AR submitted that the CIT(E) has erred in rejecting the registration U/sec12AB of the Act overlooking various documents and information substantiating the activities which are charitable in nature. Further the Ld.AR submitted that the assessee has a good case on merits and has filed an application for admission of the additional evidence under Rule 29 of ITAT rules and prayed for admission of additional evidence and substantiated the submissions with the factual paper book and judicial decisions.. Per Contra, the Ld. DR submitted that the evidences were not verified by the lower authorities and the Ld.DR supported the order of the CIT(E).

4. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue that, the CIT(E) erred in rejecting the registration u/s 12AB of the Act as the objects and the activities are not charitable in nature. The Ld. AR emphasized that the assessee has submitted the details as called by the authorities, The assessee is filling the application for admission of additional evidences under Rule 29 of ITAT rules with (i) Copy of letter dated 19-07-2023 from Urban Improvement Trust Udaipur (UTI) Udaipur (ii) Letters from various institutions for free sport facilities and (iii) Copy of application for life time membership, which were not available earlier and could not produce before the CIT(E). Further the evidences play a important role in decision making in the proceedings. Therefore considering the facts, circumstances and additional evidences and the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making and admit the additional evidence. Accordingly, to meet the ends of justice, set aside the order of the CIT(E) and restore the entire disputed issue along with the additional evidence to the file of the CIT(E) to decide afresh on merits and the assessee should be provided adequate

opportunity of hearing and shall cooperate in submitting the information. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 16.08.2023

Sd/-
(DR DIPAK P RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Jodhpur, Dated 16.08.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. Concerned CIT
5. DR, ITAT, Jodhpur
6. Guard file.

//True Copy//

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आदेशानुसार/ BY ORDER,

(Asst. Registrar)
ITAT, Jodhpur