

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.19/SRT/2021

(Hearing in Physical Court)

Shree Bhinnamal Tragad Brahmin Samast Panch, H.No.10/1851, Mahalaxmi Mata Ni Pole, Soni Falia, Surat- 395003 PAN No. AAXTS 7703 H	Vs	Commissioner of Income Tax (Exemption), Ahmedabad, Aaykar Bhavan, 100 Foot Road, Anandnagar- Prahladnagar Road, Ahmedabad-380015
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Rushi Parekh, C.A
राजस्व की ओर से /Revenue by	Shri Ashish Pophare, CIT-DR
सुनवाई की तारीख/Date of hearing	20.10.2023
उद्घोषणा की तारीख/Date of pronouncement	20.10.2023

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 Commissioner of Income Tax (Exemptions), Ahmedabad [for short to as "Ld. CIT(E)"] passed under section 12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 24.02.2021. The assessee has raised the following grounds of appeal:

"1.That the CIT(Exemption) erred in refusing registration u/s 12AA though the assessee has produced appendix-2G of application with approval of charity Commissioner of registration wherein the objectives of the trust are specifically stated with specific remarks as to formation of trust for which no formal documents or trust deed are prepared.

2.That the CIT (Exemption) erred in refusing registration u/s 12AA, though the assessee has attached ID proof of Trustees, Audit Report for A.Y 2016-17,2017-18 & 2018-19 with activity report.

3. That the CIT (Exemption) erred in observing that the assessee failed to file documentary evidences to enable to satisfy about the genuineness of activity and to verify activities in consonance with its objects.

4. That the CIT (Exemption) erred in observing that the NOC of owner of premises is not furnished.

The Trust own premises are reflected under the head "Immovable Property" in audited balance as on 31/03/2018 at Rs.27,88,527.12

5. That the CITD (Exemption) has erred in mechanically and effortlessly refused registration u/s 12AA without verifying the material on hand.

6. That the CIT (Exemption) erred in not observing from certificate of registration issued from Charity Commissioner Office Baroda that the Charitable Trust is formed & registered on 20/02/1953 & is very old.

7. That the registration u/s 12AA may kindly be granted.

8. The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of Appeal."

2. Brief facts of the case are that assessee is a charitable trust, filed application under section 12AA for its registration on 17.08.2020 before ld CIT(E). the application for registration was filed in Form No.10A under Rule-17A of Income Tax Rules, 1962. On receipt of application, Ld. CIT(E) in order to examine its activities and if the activities are in consonance its object issued show cause notice on 18.01.2021 and again on 18.02.2021. The Ld.CIT(E) recorded that assessee despite seeking adjournment on the notice dated 18.01.2021, neither furnished any details nor documentary evidence though any adjournment application filed. The ld CIT(E) was of the view he is constrained dispose of application on the basis of material available on record. The Ld. CIT(E) on the basis of material available before him noted that assessee has not filed self-certified copy of Memorandum of

Association, Rules & Regulation, Articles of Association / Trust Deed / Constitution / Public Trust Register, Bank statement, receipt and payment account and other required evidence. The Ld. CIT(E) on such observation held that assessee-trust has no intention to start charitable activities. Section 12AA makes it clear that before granting registration, he has to satisfy himself about the genuineness of such activities 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 and in consonance with object of the trust. Since the assessee-trust failed to furnish any documentary evidence to satisfy its object and genuineness of activities. The application of assessee-trust was rejected. Aggrieved by the order of Ld. CIT(E) assessee has filed present appeal before the Tribunal.

3. We have heard the submission of Ld. Authorized Representative (Ld.AR) for the assessee and Ld. Commissioner of Income Tax- Departmental Representative (Ld. CIT-DR) for the Revenue. The Ld. AR for the assessee submits that assessee-trust is a public charitable trust registered with Charity Commissioner, Vadodara, since 1953 and object of the Trust are for welfare activities of "Brahmin caste and for their benefits". Initially assessee-trust came into existence vide registration application made in Schedule-2G vide Rule 6 of the Bombay Public Charitable Trust Act, 1950. The Ld. AR for the assessee submits that while filing application, the assessee enclosed the required evidence showing the nature of activities for granting relief to

poor. The assessee also filed certificate of registration in Schedule-2G, PAN, electricity bill of the present trust and audited accounts. In response to first notice issued to assessee they could not furnish required details, however, when second notice was issued on 18.02.2021 through ITBA portal, due to second pandemic Covid-19, the assessee could file its reply. The Ld. AR of the assessee submits that Ld. CIT(E) rejected the application for want of necessary evidence about the object of the assessee-trust and its activities. The Ld.AR of the assessee further submits that assessee has also filed copy of trust deed duly registered before Assistant Charity Commissioner, Baroda Region to prove its object. The Ld. AR for the assessee submits that assessee has a good case and is likely to succeed if one more opportunity to consider its case afresh at the end of Ld. CIT(E). The Ld.AR for the assessee further submits that such documents could not be furnished at that time therefore it may be treated as additional submission and additional evidence and matter may be restored back to the file of Ld. CIT(E) afresh for examination of object of its activities.

4. On the other hand, Ld. CIT-DR for the Revenue submits that at the time of filing application under section 12AA assessee has not fulfilled the twin condition for furnishing copy of registered trust deed and the evidence of activities carried out in accordance with its object. The Ld. CIT-DR submits that Ld. CIT(E) rightly rejected the application for registration of assessee. The Ld. CIT-DR for revenue on the additional submissions and additional evidences of the assessee submits that the

assessee has not shown good cause for admissions of such evidences, however, in case this Bench is of the view that the evidences filed by the assessee require consideration, the appeal may be restored for consideration afresh in accordance with law, with a direction that assessee should furnish all required materials enabling the Ld. CIT(E) to take decision in accordance with law.

5. We have considered the rival submission of both the parties and have gone through the order of Ld. CIT(E) carefully. We find that the assessee has raised multiple grounds of appeal, however, in our considered view the sole ground of appeal before us relates rejection of application under section 12AA, therefore, we shall confine our decision on this issue alone. We find that application for registration of assessee under section 12AA filed on 17.08.2020 which was rejected for want of necessary compliance for proving object and its activities. Now, before us, Ld. AR for the assessee has filed copy of trust deed registered with Assistant Charity Commissioner Baroda Region on 03.06.2023 along with its true English translation. The Ld. AR for the assessee also undertake to file necessary evidence about its activities. Therefore, considering the relevance of evidence about the object of the trust, we deem it appropriate to restore the matter back to the file of Ld. CIT(E) with a direction to consider it afresh in accordance and pass order in accordance with law. The assessee is also directed to file required evidence before Ld. CIT(E) as and when called for to prove its object and activities.

6. We further find that initially this application was filed under section 12AA, in the meantime, the provision for registration is substituted by Section 12AB, therefore, the application of assessee to be considered under section 12AB of the Act.
7. In the result, appeal filed by assessee is allowed for statistical purposes.

Order pronounced in open court at the time of hearing on 20th October, 2023.

Sd/-
(Dr ARJUN LAL SAINI)
[लेखा सदस्य/ACCOUNTANT MEMBER]

Sd/-
(PAWAN SINGH)
[न्यायिक सदस्य JUDICIAL MEMBER]

Surat, Dated: 20/10/2023
Dkp. Out Sourcing Sr.P.S

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

// True Copy //

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