

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 2751/Mum/2023
(A.Y: 2024-25)

Smt Chandrakaladevi Somani Charity Trust, 3 rd Floor, Empire House, 214, Dr. D.N Road, Fort, Mumbai-400001.	Vs	CIT(Exemptions), Mumbai-400026.
PAN/GIR No. : AAATC0278J		
Appellant	..	Respondent

Assessee by :	Shri.Prateek Jain.AR
Revenue by :	Shri S.G.Menon. Sr.DR

Date of Hearing	09.11.2023
Date of Pronouncement	15.11.2023

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 (Exemptions)(CIT(E), Mumbai passed u/sec12AB(1)(b) of the Act dated 08.06.2023. The assessee has raised the following grounds of appeal:

1 On the facts and circumstances of the appellant's case and in law, the Ld. CIT(Exemptions) erred in rejecting the application made by the applicant in Form 10AB for change in the object clause as per section 12A(1)(ac)(v) of the Income Tax Act1961for reasons mentioned in the impugned order or otherwise

2 On the facts and circumstances of the appellant's case and in law, the Ld. CIT(Exemptions) erred in rejecting the application made by the applicant in Form 10AB treating the same as infructuous on a wrong presumption, for reasons mentioned in the impugned order or otherwise

The appellant prays this Hon'ble Tribunal to direct the CIT(Exemption) to reconsider its earlier order and accept the modifications in the object clause which was made in Form 10AB.

2. The brief facts of the case that the assessee is a trust registered with the Charity Commissioner and undertaking charitable activities. The assessee has obtained the provisional registration u/s 12A (1)(ac)(vi) of the Act. Subsequently as per amendment in the provisions u/sec 12AB of the Act, the assessee for the purpose of permanent registration uploaded e-application in Form 10AB along with enclosures. But the CIT(E) found that the assessee has not filed a valid application as per provisions of the Act and has rejected the assessee's application. Aggrieved by the order of the CIT(E), the assessee has filed the appeal before the Hon'ble Tribunal.

3. At the time of hearing, the Ld.AR submitted that CIT(E) has erred in not considering the details filed in the application for registration and compliance to e-notice issued on the ITBA portal on the amendment in the object clause of the trust and the CIT(E) has not provided reasonable opportunity of hearing and rejected the application. The Ld.AR substantiated the submissions with the details and prayed for allowing the appeal. Contra, the Ld. DR supported the order of the CIT(E).

4. Heard the rival submissions and perused the material available on record. The assessee has filed the application before the CIT(E) for permanent registration under section 12AA of the Act, whereas the CIT(E) in course of hearing proceedings has issued e-notice on the assessee through ITBA portal for certain clarifications and additional information. Whereas the Ld.AR submissions are that after obtaining the provisional registration, the assessee has filed Form.No.10AB along with the new draft of trust deed being changes in the object clause and these facts are need to be considered in granting the permanent registration but were overlooked and the CIT(E) has rejected the application. Therefore considering, the facts, submissions and the

principles of natural justice shall provide with one more opportunity of hearing to the assessee to substantiate the case along with evidences and information. Accordingly, set aside the impugned order and direct the CIT(E) to denovo consider the assessee trust application as per the law. And 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 15.11.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 15.11.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//

ITA No. 2751/Mum/2023
Smt Chandrakaladevi Somani Charty Trust, Mumbai.

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(Asst. Registrar)
ITAT, Mumbai