

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 2917/Mum/2023

(Assessment Year: 2023-24)

Your Neighbourhood Church
Association
Office No.1808, 18th Floor, C
Wing, Veer Savawarkar Marg,
Vikhroli Park Site,
Vikhroli S.O. Mumbai-400 079

Vs.

Commissioner of Income Tax
(Exemption)
Room No.601, 6th Floor,
MTNL TE Building,
Pedder Road,
Cumballa Hill,
Mumbai-400026

(Appellant)

(Respondent)

PAN No. AABCY3825B

Assessee by : Shri Raveendran P. M. &
Shri Nathan Akshith Prakash, ARs
Revenue by : Shri Dr. Kishor Dhule, CIT DR

Date of hearing: 14.12.2023

Date of pronouncement : 21.12.2023

ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No. 2917/Mum/2023, is filed by the assessee trust 'Your Neighbourhood Church Association' against the order passed by Commissioner of Income Tax (Exemption) Mumbai, [in short CIT(E)], dated 27th June, 2023, wherein the application filed by the assessee for registration under Section 12AA of the Act, was rejected.
02. Assessee is aggrieved with the same and has preferred the appeal raising following grounds of appeal:-

"1. On the facts and in the circumstances of the case and in law the learned CIT (E) erred in rejecting application for grant of registration merely on the premise that there is a mismatch in the nature of activities in Form 10A and Form 10AB as such mistake is only technical and venial in nature and neither intentional nor deliberate.

2. On the facts and in the circumstances of the case and in law the learned CIT (E) erred by taking the view that the appellant had violated as it applied "any part of its income for the benefit of any particular religious community or caste", which is not the case. Also it is the case that the learned CIT (E) had not given opportunity to clarify the same, through show cause notice/ personal hearing, during this proceeding, which is tantamount to the violation of principle of natural justice.

3. On the facts and in the circumstances of the case and in law the learned CIT (E) erred in deciding the matter based on technical issues rather than considering nature of the activity. "

03. The brief facts of the case is that the assessee is a company incorporated on 7th May, 2021, under the Companies Act, 2013, formed for the purpose of religious and charitable activities. The assessee has the object to serve to the people as per clause no. 3 of the Memorandum of Association. It filed its application for provisional registration on 16th February, 2022, in form no 10A of the Act and order of provisional registration was



granted in form no.10AC on 23rd February, 2022. The assessee applied for final registration no.10AB on 13th December, 2022. The registration to the assessee was denied holding that there is a violation of 12AB of the Act and therefore, assessee is in appeal before us.

04. Ld AR submitted a paper book and also submitted that the error of correcting nature of activities in final registration is made and assessee is not for any particular cast or creed. Therefore, there is no violation of section 12 AB of The Act.
05. The Id CIT DR supported the order of Id CIT [E] stating that correct nature of activities are not stated and further the object are in violation of section 12 AB of the Act.
06. We have heard the assessee's counsel as well as the learned CIT Departmental Representative. On perusal of the order of the learned CIT (E), in form no.10AD of the Rules, it is found that the nature of activities mentioned by the assessee in form no.10 AB, was "religious cum charitable". However, in form no.10A, assessee mentioned the nature of activities is "charitable". Therefore, there is mismatch of the activities in form no.10A and form no.10AB. The learned CIT(E) on verification of the trust deed or Memorandum of Articles found that the trust has mentioned religious activities which is a violation of Section 12AB(4) of the Act. The assessee contested that assessee objects are not with respect to the benefit of any particular community or caste but to the whole society. It is found that mainly the application was rejected for the



reason that according to clause (d) to explanation to Section 12AB(4), if the trust applies any part of the income for the benefit of any particular religious community or caste, it would be violation for granting registration to the trust. On careful perusal of form no.10 A and form no. AB, We find that there is definitely mismatch in the nature of activities. In form no. 10 A, assessee mentioned nature of activities as only 'charitable' whereas, in form no.10AB it is 'religious cum charitable'. The assessee submits that in form no.10AB classification of nature of activities is correct. It is further stated that the activities for the object of the assessee's trust is not restricted to any caste or religion but it is for the whole mankind. The claim of the assessee is that assessee has made a submission on 30th June, 2023 and 14th June, 2023. However, the assessee has not been confronted that it is violating the provisions of Section 12AB(4) of the Act. The reference to report of the activities carried out during the year 2022-23 is also placed before us. At page no.6 to 19 of the paper book, which shows that it is not for the purpose of any specific caste or creed. However this needs to be demonstrated before the Id CIT (E). In view of this, we restore this appeal back to the file of the learned CIT(E) with a direction to the assessee to show that the trust is not existing for the benefit of particular religious community or caste. The necessary explanation to be submitted before him and the learned CIT (E), may examined the same and decide the issue afresh.



Accordingly, ground no.2 of the appeal is allowed for statistical purposes with above direction.

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

Order pronounced in the open court on 21.12.2023.

Sd/-
(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 21.12. 2023
Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai