

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No. 355/Ahd/2023  
(Assessment Year: N.A.)

Shree Shantinathji Deraser Ni Pedhi Limdi, Ni Pedhi Limdi 89 Jain Mandir, Limdi Jhalod, Dahod-389180	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No. AAOTS5816N]		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri H.V. Doshi, A.R.
<b>Respondent by:</b>	Shri Sudhendu Das, CIT D.R.
<b>Date of Hearing</b>	08.01.2024
<b>Date of Pronouncement</b>	17.01.2024

ORDER

**PER SIDDHARTHA NAUTIYAL, JM:**

This appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad in DIN & Notice No. ITBA/EXM/F/EXM45/2022-23/1050962595(1) vide order dated 19.03.2023.

2. The assessee has raised the following grounds of appeal:-

“1. On the facts and in circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Exemption) has erred in rejecting application for registration u/s 12AB of the Act.

2. On the facts and in circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Exemption) has not provided reasonable opportunity of being heard as provided under Second Proviso to Section 12AB(1)(b)(ii)(B) of the Act.

3. On the facts and in circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Exemption) has hurriedly rejected the claim of assessee without pointing out deficiency of non-availability of audit report

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*on record and even not given opportunity for submitting audit report for FY – 2021-22 which was available with the appellant trust.*

4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”*

3. The brief facts of the case are that the assessee filed application under Section 12AB of the Act on 30.09.2022 in Form 10AB under Rule 17A of the Income Tax Rules. Thereafter, notice dated 06.12.2022 was issued by CIT(E), asking the assessee to furnish detailed note on the activities carried out by the Trust as well as certain details / documents as mentioned therein. The assessee furnished details on 26.12.2022. Another notice was issued by CIT(E) on 28.12.2022 asking the assessee to file complete details, in absence of which, the matter will be decided on the basis of facts and material available on record. The CIT(E) passed order on 19.03.2023, rejecting the application filed in Form 10AB for registration under Section 12AB of the Act, on the ground that Trust had filed only accounts for F.Ys. 2018-19, 2019-20 and 2020-21, but had not filed annual accounts of the Trust for F.Y. 2021-22.

4. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(E) rejecting the application for registration under Section 12AB of the Act. Before us, the Counsel for the assessee submitted that firstly, the Ld. CIT(E) did not give the assessee adequate opportunity of hearing to present it's case on merits and secondly, the final notice dated 28.12.2022 did not mention the specific details which were pending on part of the assessee. It was submitted before us that Ld. CIT(E) had given only two opportunities of hearing, vide notices dated 06.12.2022 and 28.12.2022. It was submitted that both the notices were issued within a very short interval, and accordingly, the assessee was not given adequate opportunity to present it's case on merits. Further, it was submitted that the subsequent notice did not indicate which

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details are pending on part of the assessee and therefore, the assessee responded to the notice issued on 29.12.2022 by sending acknowledgement of the details filed in the earlier reply, so that office of Ld. CIT(E) may verify the details before giving any final show-cause notice for asking for further details specifically required for the purpose of verification of genuineness of the activities of the Assessee Trust. Accordingly, the Counsel for the assessee requested that the Trust was registered on 27.04.2006 and has been carrying on genuine activities and accordingly, requested that the matter may be set-aside to the file of CIT(E) for de-novo consideration after giving due opportunity to the assessee to present it's case on merits, in the interest of justice.

5. On going through the facts of the instant case, and the submissions made before us by the Ld. Counsel for the assessee, we are of the considered view that in the interest of justice, this matter may be restored to the file of the Ld. CIT(E) for de-novo consideration after giving due opportunity of hearing to the assessee to present it's case on merits. The assessee is also directed to promptly and diligently comply to all notices of hearing and in case there is any non-compliance on behalf of the assessee, the Ld. CIT(E) would be at liberty to pass appropriate order, on the basis of materials available on record, in accordance with law.

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

<b>This Order pronounced in Open Court on</b>	<b>17/01/2024</b>
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**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**  
Ahmedabad; Dated 17/01/2024  
*TANMAY, Sr. PS*

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

**TRUE COPY**

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad