

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

ITA No. 587/Ahd/2023

Shree Shakuntal Education Trust, A-32, Parul Nagar Society, Bhuyangdev Cross Roads, Sola Road, Ahmedabad-380061, Gujarat PAN: AAIT5749A (Appellant)	Vs	The CIT(Exemption), Ahmedabad (Respondent)
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**Assessee Represented: Shri Palak Pavagadhi, C.A.
Revenue Represented: Shri Sudhendu Das, CIT-DR**

Date of hearing : 04-03-2024
Date of pronouncement : 08-03-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against order dated 29.05.2023 passed by the Commissioner of Income Tax (Exemption) denying of Registration under section 12AB of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The brief facts of the case is that the assessee is a Public Charitable Trust incorporated on 10.02.1977 and is running a

Primary School under the name “SVS English School” and “Anoora Learning Centre for Kids” for physically disabled kids. As per the new provisions of the Act, the assessee filed Application under section 12AB of the Act on 25.11.2022 in Form No. 10AB r.w. r. 17A of the Income Tax Rules, 1962.

3. The Ld. CIT(E) issued notice dated 17.02.2023 through ITBA on the email id given by the assessee, requesting the assessee to furnish detailed note on the activities carried out by the Trust, as well as certain details/documents mentioned therein. As there was no response to the notice, two more opportunities were given to the assessee by issuing notices on 25.03.2023 and 03.05.2023. The assessee made part compliance by furnishing peace-meal details. Therefore the Ld. CIT(E) found that the submissions filed by the assessee does not contain complete details/documents namely copy of the bank statement, identity proof of name/managing trustees, non-filing of copies of the Returns for the previous three Financial Years and undertaking required u/s. 2(15), 12AB(4) of the Act regarding adherence towards all the requirements of law and material for the purpose of objects enumerated in the Trust Deed, details regarding donation received or paid, if any. As the Ld. CIT(E) was constrained to dispose of the Application for Registration u/s. 12AB of the Act within statutory period of six months and based on the available material on record, rejected the Application filed by the assessee observing as follows:

“8. In spite of specific requisitions, the applicant/assessee has not submitted the requisite details. Therefore, no verification of the objects as per the constitution/deed with the activities could be carried out. Thus, the genuineness of the activities does not get established, due to non-

compliance by the applicant/assessee. Section 12AB makes, it very clear that before granting registration under this section, the Commissioner has to satisfy himself about the genuineness of the activities of the trust or institution and also he has to verify that these activities are in consonance with the objects of the trust or institution. Further, he has to ensure that other laws material for the purpose of achieving objects are complied with.

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10. As discussed above, the applicant/assessee has failed to file documentary evidences to enable me to satisfy about the genuineness of its activities and to verify these activities are in consonance with its objects.

11. Looking to the above facts, I am unable to arrive at the satisfaction of the genuineness of the activities. Hence, the present application fled in Form No. 10AB for the registration u/s. 12AB of the I.T. Act, 1961, is rejected.”

4. Aggrieved against this rejection, the assessee is in appeal before us raising the solitary ground as follows:

1. The CIT(E) has erred in passing the order and rejecting the application made filed in Form No. 10AB for the registration u/s. 12AB of the I.T. Act, 1961.

5. Ld. Counsel for the assessee submitted that the assessee Trust filed Copy of the Trust Deed, Copy of the Registration Certificate, Copy of the existing Registration u/s. 80G of the Act and also Copy of the Provisional Registration granted by Ld. CIT(E) vide Form 10AC on 27.05.2021. Ld. Counsel further submitted that the assessee Trust was claiming exemption u/s. 11 of the Act and 80G(5) of the Act since two decades and the assessee Trust regularly assessed to Income Tax, the Revenue had accepted assessee status as Public Charitable Trust since many years which clearly establish the genuineness of the activities carried out by the Trust. The Ld. Counsel produced before us Copies of the Income Tax Returns and Audit Report for preceding three Asst. Years

namely A.Y. 2019-20 to 2022-23. The Ld. Counsel further submitted that the assessee was granted provisional registration u/s. 12AA of the Act in Form No. 10AC vide order dated 27.05.2021 for the Assessment Years 2021-22 to 2023-24 after verification of all the required details by the Ld. CIT(E). However without considering the submissions made by the assessee, the Ld. CIT(E) denied final Registration u/s. 12AB of the Act and pleaded one more opportunity be given to the assessee Trust and it undertake to file all the requisite documents or evidences in support of its case for granting Registration u/s. 12AB of the Act.

6. Per contra, the Ld. CIT-DR appearing for the Revenue submitted that the Ld. CIT(E) has granted three hearing opportunities to the assessee before rejection, since he has to grant or reject any application within six months period of filing that application. The assessee having not filed the Income Tax Returns and Audit Report which made the Ld. CIT(E) not to verify the activities of the Trust and thereby denied the Registration, which does not require any interference.

7. We have given our thoughtful consideration and perused the materials available on record including the submissions and details filed by the assessee on 09.05.2023 namely detailed note on the nature of activities, previous registration u/s. 12AA and 80G(5), Copy of the Trust Deed, no business undertaking under provisions of section 11(4) or 11(4A) of the Act. However the assessee filed before us Copies of Income Tax Returns and Audit Report for the preceding three Asst. Years namely 2019-20 to 2022-23 and

requested to grant one more opportunity, so that the assessee can clarify and produce any further documents to prove the genuineness of the activities carried out by the Trust.

7.1. For Registration of a Trust u/s. 12AB, different Forms to be filed with necessary documents as enumerated in Rule 17A of the I.T. Rules. Even Ld. CIT(E) is bound to dispose of the Application either for granting Registration or refusing Registration, before the expiry of six months from the end of the month in which the Application was received, u/s. 12AA(2) of the Act, after giving proper opportunity of hearing to the assessee. In this case, three hearing opportunities were given by the Ld. CIT(E), however the assessee Trust failed to file the Income Tax Returns and Audit Report for the previous three preceding Financial Years. Now the assessee undertook to file the same, as well as other details before Ld. CIT(E). The assessee who wish to claim exemption u/s. 12AB should always make their application with relevant details as enumerated under Rule 17A of the Rules, so that the Statutory Authorities can consider the Application for Registration within the provisions of law.

8. Therefore considering the facts and circumstances of the case, in order to prevent miscarriage of justice, we find it fit and proper to provide one more opportunity of being heard to the assessee in support of its case for registration of the trust u/s. 12AB of the Act. Therefore we dispose of this appeal by restoring this issue to the file of the Ld. CIT(E) with a direction upon him to provide further opportunity of being heard to the assessee and consider the

documents, evidences which the assessee would file as per the notice issued by the Ld. CIT(E). Upon considering the entire set of documents and upon affording an opportunity of being heard to the assessee, the Ld. CIT(E) to dispose of the application for grant of registration of the Trust under Section 12AB of the Act with a speaking order. Needless to say if the assessee fails to co-operate with the Ld. CIT(E) as directed hereinabove, the Ld. CIT(E) would be at liberty to pass order strictly in accordance with law.

9. In the result, the appeal filed by the Assessee is hereby allowed for statistical purposes.

Order pronounced in the open court on 08-03-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 08/03/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद