

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ
**IN THE INCOME TAX APPELLATE TRIBUNAL,
" D " BENCH, AHMEDABAD**

**BEFORE Ms SUCHITRA KAMBLE, JUDICIAL MEMBER
And
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.406/AHD/2023

निर्धारण वर्ष/Asstt. Year: NA

Sakarkhan Hasan Shahid Masjid, Sujkob House, Sodagar Street, Kalupur, Ahmedabad-380001. PAN: AAWTS4150M	Vs.	The Commissioner of Income Tax (Exemption), Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri DK Parikh, AR
Revenue by :	Dr. Darsi Suman Ratnam, CIT.DR

सुनवाई की तारीख/**Date of Hearing** : **07/03/2024**

घोषणा की तारीख /**Date of Pronouncement**: **13/03/2024**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Exemption), Ahmedabad, arising in the matter of assessment order passed under s. 12AB of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year NA.

2. The only grievance raised by the assessee is that the Ld. CIT(E) erred in rejecting the application for the registration filed u/s 12AB of the Act.

3. On perusal of the order of the Ld. CIT(E), it is noted that the application filed by the assessee for the registration u/s 12AB of the Act has been rejected for two reasons. Firstly, there was mismatch in the name of the assessee between bank/form No. 10AB vis-a-vis certificate issued by the Gujarat State Work Board/Charity Commissioner/Public Trust Registrar and in the financial statements. Secondly, the assessee failed to furnish the necessary details in spite of the notices issued upon it. The relevant observation of the Ld. CIT(E) is extracted below:

6. From perusal of details available on records, it is observed that the Name of the applicant/assessee as per PAN/Form No. 10AB is "SAKARKHAN HASAN SHAHID MASJID", whereas the name as per the Gujarat State Wakf Board is "SHAKARKHAN HASAN SHAHID ANE MASJID" and the name as per the notarized copy of Registration Certificate issued by the charity commissioner is "SAKARKHAN HASAN SHAHID MASJID TRUST". Further, the name appears in the Public trust register as "SHAKAR KHAN HASAN SHAHID & MASJIDS". Furthermore, the assessee/applicant has submitted separate audit reports for the financial year ending 31.03.2019, 31.03.2020 & 31.03.2021 in the names of "SAKARKHAN MASJID" and "HASAN SHAHID MASJID". There is obvious mismatch in name as per PAN database/Form No. 10AB, Certificate of Registration, Public Trust Register and audit reports, as detailed above and therefore it was incumbent on the part of the applicant/assessee to submit the reasons/explanation for the same. However, the applicant/assessee has not submitted any explanation in this regard.

7. I am therefore, constrained to dispose off the present application for registration u/s. 12AB of the I.T. Act, 1961 on the basis of material available on records. In spite of notices issued, to submit the details/documents called for, the applicant/assessee has not submitted the requisite details. Therefore, no verification of the objects as per the trust deed with the activities could be carried out. Thus, the genuineness of the activities does not get established, due to lack of details/explanations submitted 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.

4. Being aggrieved by the order of the Ld. CIT(E), the assessee is in appeal before us.

5. The Ld. AR before us filed a paper book running from pages 1 to 16 and contended that the necessary changes in the name of trust have been duly rectified. The Ld. AR to buttress his argument has drawn our attention on pages 151 to 161 of the paper book where the details for carrying out the correction in the name of the assessee have been placed.

6. The Ld. AR also submitted that the assessee has made the necessary compliance in response to the notice issued by the Ld. CIT(E) which can be verified from pages 19 to 134 of the paper book. As per the Ld. AR no defect has been pointed with respect to the details filed by the assessee before the Ld. CIT(E). As such, the Ld. AR prayed to set aside the issue to the file of the Ld. CIT(E) for fresh adjudication.

7. On the other hand, the Ld. DR contended that he has no objection if the matter is set-aside to the Ld. CIT(E) to verify the necessary correction made by the assessee in its name and decide the issue afresh as per the provisions of law. It was further pointed out by the Ld. DR that there is a mismatch in the observation of the Ld. CIT(E) vis-a-vis the contention raised by the Ld. AR that the necessary compliance has been made by the assessee during the proceedings before the Ld. CIT(E). In the nutshell the Ld. DR submitted the matter can be restore for the fresh adjudication as per the provision of law to the file of the Ld. CIT(E).

8. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the registration application was rejected by the Ld. PCIT, for two reasons i.e. mismatch in the name of the assessee's trust and the necessary details about activities of the trust were not available on record. However, we note that now the assessee has made necessary correction in its name which needs to be verified at the level Ld. CIT(E), therefore in the interest of justice and fair play we are inclined to set-aside the issue to the file of the Ld. CIT(E) for fresh adjudication as per the provision of law and after considering the documents/details available in the paper book on page 19 to 134. However, the assessee is duty bound to furnish the other details if so desired by the Ld. CIT(E). Accordingly, ground of appeal of the assessee is allowed for the statistical purposes.

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

Order pronounced in the Court on 13/03/2024 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

Ahmedabad; Dated
Manish

**(True Copy)
13/03/2024**