

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

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.309/Ahd/2023
(Assessment Year: 2023-24)

Shri Balol Jain Sangh, 0, At Post Balol, Mehesana Gujarat-384410	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No.AALTS0622B]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Jaimin Shah, A.R.
Respondent by:	Shri Sudhendu Das, CIT D.R.

Date of Hearing	14.03.2024
Date of Pronouncement	15.03.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

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/EXM45/2022-23/1049977266(1) vide order dated 21.02.2023 passed for Assessment Year 2023-24.

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

“1. That the Ld. CIT(Exemption), Ahmedabad has erred in law and on Facts while rejected the registration application U/s 12AB of the Income Tax Act, 1961 and therefore the order passed by CIT(Exemption), Ahmedabad may please be quashed.

2. That the objects of the assessee trust are eligible for registration U/s 12AB of the I.T.Act, 1961, however the application for registration was rejected by Ld. CIT (Exemption), Ahmedabad is against the provision of law. Therefore the registration u/s 12AB of the IT. Act, 1961 may please be granted.

3. That the assessee has made application u/s 12AB of the IT. Act, 1961. However the same was rejected without giving proper opportunity of being heard

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and without considering the reply filled by the assessee on 13/12/2022 and 29/12/2022 respectively, which is against the provision of natural justice and therefore the order passed on 21/02/2023 for rejection of application u/s 12AB dated 24/08/2022 may please be quashed.

4. That the appellant has submitted all the details and documents along with application U/s 12AB on 30/08/2022, however without considering the documents available on record the provisional registration was cancelled is against the provision of law and as such the order passed for cancellation of registration may restore back to the CIT(Exemption), Ahmedabad for re-adjudication for want of natural justice to the appellant.

5. The assessee craves leave to add, alter, amend or delete any grounds of appeal before the appeal finally heard and decided.”

3. The brief facts of the case are that the assessee filed application for registration of Trust under Section 12AB of the Act on 24.08.2022. However, the application was rejected by the CIT(E) vide order dated 21.02.2023.

4. Before us, the Counsel for the assessee submitted that the only reason why the CIT(E) rejected the application of the assessee was on the ground that name of the assessee / applicant in the PAN is Shri Balol Jain Sangh, whereas the name appearing in the trust deed submitted by the assessee / applicant is Shri Balol Swetambar Murti Pujak Jain Sangh. Therefore, since there is mismatch in the name as per PAN database vis-à-vis the trust deed / instrument and the assessee has not submitted any reason / explanation for the mismatch in the name, the application filed by the applicant was rejected by Ld. CIT(E). The Counsel for the assessee submitted that the assessee is a very old trust which was registered in 1952. Further, the Counsel for the assessee submitted that while dismissing the application filed by the assessee / applicant the Ld. CIT(E) did not discuss the objects of the trust and neither did he discuss the activities which were being carried out by the applicant trust. The Counsel for the assessee submitted that the application filed by the applicant / assessee was dismissed without giving adequate opportunity of hearing to the assessee /

applicant. The Counsel for the assessee drew our attention to Pages 21, 27-29, 30-31, 34-42 of the Paper Book and submitted that various details like copy of trust deed, Audit Report, note on the activities carried out by the trust, list of donations received by the trust etc. were submitted before CIT(E). However, without granting any opportunity of hearing to the assessee and without considering the various materials placed on record by the assessee / applicant, Ld. CIT(E) summarily dismissed the application filed by the applicant / assessee, only on the ground that there was mismatch in the name of the assessee as per the PAN Card and the trust deed. Accordingly, the Counsel for the assessee submitted that in the interest of justice, the 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 its case on merits. The Counsel for the assessee submitted that the applicant is a very old trust and has been existence for over 78 years and in the interest of justice, the application for registration under Section 12AB of the Act filed by the assessee / applicant trust should not be dismissed summarily, without giving opportunity of hearing to the assessee / applicant.

5. On going through the facts of the instant case and the order passed by the Ld. CIT(E) we are of the considered view that in the instant case, the assessee has been able to demonstrate that it had filed various details as called for by CIT(E) vide reply dated 13.12.2022 and 29.12.2022. The primary reason for rejection of application filed by the assessee is that the name of the applicant / assessee as per PAN is not matching with the name appearing in the trust deed / instrument of creation submitted by the assessee / applicant. However, the Counsel for the assessee submitted that the name is mentioned in the PAN Card is matching with the certificate of registration issue to the

assessee. Accordingly, the Counsel for the assessee submitted that since the name is mentioned in the PAN Card is matching with the certificate of registration issued by the concerned authority to the assessee / applicant trust, this is not a valid ground for denial of registration to the assessee. The Counsel for the assessee drew our attention to Pages 32-33 of the Paper Book in support of the fact that there is no mismatch in PAN number as mentioned in the PAN Card and the certificate of registration issued to the assessee / applicant by the Charity Commissioner dated 18.11.1952. However, while dismissing the application filed by the assessee trust, those details were not looked into / analyzed by Ld. CIT(E) and the application was dismissed with the following observations:-

“7. From perusal of details available on record it is observed that the name of the applicant/assessee as per PAN is “SHRI BALOL JAIN SANGH”, whereas the name appearing in the Trust deed/Instrument of creation submitted by the applicant/assessee is “SHRI BALOL SWETAMBAR MURTI PUJAK JAIN SANGH”. There is obvious mismatch in name, as per PAN database vis-a-vis the Trust deed/Instrument of creation submitted by the applicant/assessee, 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.

*8. 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. Reliance in this regard is also placed on the judgment delivered by the Hon'ble Supreme Court in the case of **Commissioner of Income-tax, Ujjain Vs Dawoodi Bohara Jamat Civil Appeal No. 2492 of 2014**, wherein the Hon'ble Apex Court while adjudicating similar provisions u/s. 12AA of the Act”*

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6. Accordingly, looking into the instant facts, in the interest of justice, the matter is being restored to the file of Ld. CIT(E) with a view to give due opportunity of hearing to the assessee / applicant and thereafter, pass an order in accordance with law.

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

This Order pronounced in Open Court on	15/03/2024
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 15/03/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रहित/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