

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH

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

ITA No. 203/Ahd/2023

Kantaba Paxighar And Patel Kalabhai Ataramdas Bal Vatika Akhaj Akhaj, Mehsana, Mehsana-382710 Gujarat, India PAN: AACTK6723E (Appellant)	Vs	The Commissioner of Income Tax (Exemption), Ahmedabad (Respondent)
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**Assessee Represented: Shri H V Doshi, A.R.
Revenue Represented: Dr. Darsi Suman Ratnam, CIT-DR**

Date of hearing : 08-03-2024
Date of pronouncement : 20-03-2024

आदेश/ORDER

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

This appeal is filed by the Assessee as against the rejection of registration under section 12AB of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide order dated 27.02.2023 passed by the Commissioner of Income Tax (Exemption), Ahmedabad.

2. The brief facts of the case is that the assessee is a Trust registered on 16.06.2015 before the Office of Public Trusts Registration, Mehsana. This Trust was created on 04.01.2015 for the welfare of the birds and children. The assessee Trust filed its application for registration u/s. 12AB of the Act on 30.08.2022 in Form 10AB read with Rule 17A of the Income Tax Rules in the name of Kantaba Paxighar and Patel Kalabhai Atmaramdas Val Vatika Akhaj, Mehsana (the word "Trust" is missing). The Ld. CIT(E) issued a notice dated 17.11.2022 through ITBA portal asking the assessee Trust to furnish detailed note on the activities actually carried out by it as well as certain details/documents as mentioned therein.

3. In response, the assessee filed certain details/documents. Another notice was issued by CIT(E) on 27.12.2022 requesting the assessee trust to furnish pending details. In response, the assessee trust has not furnished any detail or document called for. Therefore the Ld. CIT(E) vide this impugned order rejected the registration u/s. 12AB of the Act observing as follows:

"...7. From perusal of details available on records it is observed that the name of the applicant/assessee as per PAN is 'KANTABA PAXIGHAR AND PATEL KALABHAI ATMARAMDAS BALVATIKA AKHAJ", whereas in the copies submitted of Memorandum of Association, both in English and Gujarati, the name appearing therein is "KANTABA PAKSHI GHAR AND PATEL KALABHAI ATMARAMDAS BALVATIKA TRUST". Similarly, in the Bank account held with the Baroda Gujarat Gramin Bank Akhaj, the name of the account holder has been mentioned as "KANTABA PANKHI GHAR OR KALABHAI AATMARAM DAS BALVATIKA TRUST". There is obvious mismatch in name, as per PAN database vis-à-vis Certificate of Registration and other documents, 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.”

3.1. Thus the Ld. CIT(E) held that he is unable to arrive about the genuineness of the activities carried out by the assessee and thereby rejected the application for registration u/s. 12AB of the Act.

4. Aggrieved against the appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

1 The Commissioner of Income Tax(Exemption) Ahmedabad has erred in Law and on facts, in rejecting our application in Form 10AB u/s. 12AB of the Income Tax Act, 1961, on non-satisfaction of genuineness of the activities of the trust.

2 The CIT(Exemption) has erred in law, in overlooking and in summarily rejecting and not considered, the tangible material submitted during the proceeding u/s. 12AB of Income Tax Act. 1961.

3 Your appellant crave, leave to add, alter, & or to amend, modify, substitute all or any ground of appeal before final hearing if necessity so arise.

5. Ld. Counsel Shri H V Doshi appearing for the assessee submitted before us a Paper Book running to 76 pages which contains the Form 10AB with attachments filed before Ld. CIT(E). The Ld. Counsel also filed before us the Trust Deed, Certificate of Registration of the Trust, Bank Statements with Baroda Gujarat Gramin Bank Akhaj both with incomplete name and corrected name of the Trust. The assessee also produced before us Provisional Registration dated 14.03.2022 granted to the assessee without the word “Trust” for the Assessment Year 2022-23 to 2024-25. Thus the Ld. Counsel pleaded that the Ld. CIT(E) has not

pinpointed the missing word “Trust” in the application for registration, the same cannot be a reason for Rejection of Registration. Therefore pleaded to set aside the matter back to the file of Ld. CIT(E) for granting registration u/s. 12AB of the Act.

6. Per contra Ld. CIT-DR Dr. Darsi Suman Ratnam appearing for the Revenue brought to our notice to the PAN Card issued to the Trust on 16.06.2015 wherein the very word “Trust” was missing. Even in the application made in Form No. 10AB was also without the word “Trust” and all the communication before Ld. CIT(E) is without the word “Trust”, but the very Certificate of Registration of the assessee with the Public Trust Registration Department and the Trust Deed carrying the name of the assessee with the suffix “Trust”. The assessee Trust has not placed before any of the authorities, the corrected PAN of the assessee. This is certainly mismatch in the name of the assessee with all the details filed before the lower authorities. There is no explanation from the assessee, why the mismatch in its PAN Card with missing word “Trust”. Therefore the Ld. CIT(E) correct in rejecting the Registration u/s. 12AB of the Act, this order does not require any interference and assessee appeal is liable to be dismissed.

7. The assessee trust was directed vide proceedings dated 29.01.2024 to file a Notarized Affidavit from the Managing Trustee of the Trust explaining the discrepancy in the “name of the Trust” and that of its PAN data. In response, the assessee filed an Affidavit declaring correctness of facts about mismatch of name in PAN,

Registration Certificate, Bank Statement, Constitution, etc. by way of Notarized Affidavit dated 06.02.2024 which reads as follows:

1. PATEL MANGALBHAI JETHABHAI (Trustee of Kantaba Paxighar and Patel Kalabbai Atmaramdas Balvatika Akhaj) aged about adult, son of JETHABHAI PATEL, do solemnly affirm and state on oath as under:

1. I am trustee of Kantaba Paxighar and Patel Kalabhai Atmaramdas Balvatika and I had applied for registration u/s 12AB of IT Act in Form 10A and 10AB on behalf of above trust.

2. Our trust is registered under Bombay Public Trust Act and registration certificate is in Gujarati language issued by Assistant charity commissioner which is conclusive evidence of existence of trust and the name shown in registration certificate is correct and final.

3. Application for PAN was obtained by writing name of trust in English "Kantaba Paxighar and Patel Kalabhai Atmaramdas Balvatika. Akhaj".

4. We are using above name whenever required in English.

5. We had also applied for registration in Form 10-A as per name shown in PAN.

6. While opening bank account, name was incorrectly written but now it is corrected and it is operated as per the name shown in PAN and copy of the corrected bank statement reflecting correct name was also submitted in paper book for the purpose of hearing before ITAT.

7. Similarly, while translating registration certificate in English language, translator has translated by using different alphabets of name. Copy of translated registration certificate in correct name was submitted by appellant along with clarification submitted to ITAT.

8. That after correction in bank statement and correction in translated registration certificate, there is no mismatch of the name between PAN card, bank statement and registration certificate.

9. That the trust has also adopted constitution as per the name shown in registration certificate, PAN as well as in bank account and said constitution is submitted to office of assistant charity commissioner of public trust registration office of Mehsana on 5th

February 2024 through filing Change Report In Form 3 A copy of ack is submitted herewith

10. Therefore, mismatch of the name is mainly due to innocent mistake of translator and without any intention to misguide anyone.

11. I further declare that the activities of the trust is genuine and the details submitted under my signature in Form 10AB are very genuine and correct.

8. Since the above explanations have been disclosed before us for the first time by way of Notarized Affidavit, we deem it fit to set aside the matter back to the file of Ld. CIT(E) to consider the above Notarized Affidavit and grant/reject Registration u/s. 12AB in accordance with provisions of the Act.

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

Order pronounced in the open court on 20 -03-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 20/03/2024

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