

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

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

I.T.A. No.74/Ahd/2022
(Assessment Year: N.A.)

Shri Ramji Mandir Trust Akhaj, At & PO: Akhaj, Ta & Dist: Mehsana, Gujarat-382713	Vs.	Principal Commissioner of Income Tax (Exemptions), Ahmedabad
[PAN No.AAKTS0156P]		
(Appellant)	..	(Respondent)

Appellant by :	Shri H. V. Doshi, A.R.
Respondent by:	Shri Aarsi Prasad, CIT-DR

Date of Hearing	13.03.2024
Date of Pronouncement	24.04.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Principal Commissioner of Income Tax (Exemptions) (in short “Ld. PCIT(E)”), Ahmedabad vide order dated 18.09.2017.

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

“1. Ld. Pr. Commissioner of Income Tax (Exemption) - Ahmedabad erred in rejecting application for grant of approval of registration u/s 12AA of the Act, on the grounds of non submission of required details for satisfaction of genuineness of the trust without giving enough opportunity to appellant trust by disregarding the facts of small size of trust located in small village duly managed by uneducated farmers of the village.

2. Ld. Pr. Commissioner of Income Tax (Exemption) has further erred in rejecting application for grant of approval of registration u/s 12AA of the Act without considering the facts that most of the evidences of genuineness of the trust were in record along with the application.

3. The appellant contest all the findings of the fact and law given against the appellant.

4. The appellant therefore prays that learned principal commissioner of income tax (exemption) may direct to grant registration under Section 12 AA of it act to appellant trust

5. *The appellant craves leave to, amend or alter or delete any of above grounds of appeal.”*

Application for Condonation of delay:

3. At the outset, we observe that the appeal is time-barred by 1588 days. The counsel for the assessee has filed an application for condonation of delay, in which it was submitted that the delay is due to weak administration of trustees, lack of proper advise in respect of filing appeal before Income Tax Tribunal, not making immediate decision by trustees to file an appeal and lastly on account of COVID. If one were to exclude the Covid pandemic period, then the effective delay is of 852 days. The applicant / the assessee submitted that the assessee is a Trust which is maintaining temple of Ramji and is engaged in arranging some events of religious festivals and the activity of the assessee. The assessee trust applied for registration under Section 12AA on 28.03.2017, which was rejected by CIT (Exemption) vide order dated 18.09.2017 on the ground that the applicant has failed to file documentary evidences to satisfy the genuineness of its activities and has failed to verify that activities of the Trust are in consonance with its objects. The appellant submitted that the temple is being run by illiterate farmers of small village, who were not aware about implications of the notice. Also there was a problem of language as well as lack of legal unawareness. The reply to notice issued by Ld. CIT(E) was sent by Courier on 05.09.2017 i.e. on the last day given in the second notice issued by Ld. CIT(E) dated 02.08.2017. However, the reply reached very late i.e. on 26.09.2017 due to mistake by Courier. The CIT-Exemptions rejected the application vide order dated 18.09.2017, however, the assessee was also not aware about the rejection of the application filed by the assessee. The assessee submitted that genuineness of the activities of the Trust are further supported by the fact that the assessee had obtained registration

under Section 12AA for Assessment Year 2019-2020 on 14.05.2019 i.e. immediately subsequent year on the same set of facts. It was only on receipt of notice of demand for this Assessment Year that the Assessee Trust came to know that the original application for registration had been rejected. Accordingly, it was submitted that the delay in filing of the present appeal was due to genuine bona-fide reasons and that the assessee gained nothing by not filing the appeal within the permitted time.

4. On going to the application for condonation of delay, we are of the considered view that leaving aside the period of limitation owing to the Covid pandemic, there is a delay of 852 days in filing of the present appeal. However, on-going though the application for condonation of delay, it is observed that the delay in filing of the present appeal is due to lack of knowledge and ignorance of the fact by the trustees and not due to intention to jeopardise the interest of the revenue by delaying the filing of appeal. The Supreme Court in the case of **Collector, Land Acquisition v. Mst. Katiji 1987 taxmann.com 1072**, analysed the provisions of law qua limitation Act and held that the expression 'sufficient cause' employed by the legislature in the Limitation Act is adequately elastic to enable the Courts to apply the law in a meaningful manner which sub-serves the ends of justice-that being the life purpose for the existence of the institution of Courts. **It was further observed that a liberal approach is required to be adopted on principle as ordinarily a litigant does not stand to benefit by lodging an appeal late. Further refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.** The Apex Court further held

that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so. The Supreme Court in **N. Balakrishnan v. M. Krishnamurthy 2008 (228) ELT 162**, while condoning the delay of 883 days in filing an application for setting aside the ex parte decree held **“That the purpose of Limitation Act was not to destroy the rights. It is founded on public policy fixing a life span for the legal remedy for the general welfare.** The primary function of a Court is to adjudicate disputes between the parties and to advance substantial justice. The time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. The object of providing legal remedy is to repair the damage caused by reason of legal injury. **If the explanation given does not smack mala fides or is not shown to have been put forth as a part of a dilatory strategy, the Court must show utmost consideration to the suitor.”**

5. In view of the foregoing circumstances, in interest of justice, we are hereby condoning the delay in filing of the present appeal.

On Merits:-

6. On merits, the counsel for the assessee submitted that it was purely owing to the fact the courier containing all the details as requested by Ld. CIT(E) reached late and it was owing to the fault of the Courier that the application for approval for grant of registration was rejected. Further, it was

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submitted that the assessee is engaged in religious activities of running Ramji Mandir and hence entitled to grant of registration under Section 12AA of the Act. Further, the genuineness of the activities of the assessee trust is also supported by the fact that in the immediately subsequent year, the CIT-Exemptions has granted approval under Section 12AA of the Act to the assessee trust vide order dated 14.05.2019. Accordingly, it was submitted before us that if given an opportunity the assessee shall furnish all requisite documents before the CIT-Exemptions so as to enable him to grant the necessary registration under Section 12AA of the Act. Accordingly, the matter may be restored to the file of CIT-Exemptions, for de novo consideration and to pass order in accordance with law.

7. On going to the facts of the instant case, in interest of justice, the matter is being restored to the file of CIT-Exemptions for de novo consideration after giving due opportunity of hearing to the assessee and therefore, pass order in accordance with law after taking into consideration assessee's set of facts.

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

This Order pronounced in Open Court on	24/04/2024
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 24/04/2024
TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

TRUE COPY

ITA No. 74/Ahd/2022
Shri Ramji Mandir Trust Akhaj vs.PCIT
Asst.Year –NA

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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