

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI,

आयकर अपील सं./ITA No. 70/JP/2024
निर्धारण वर्ष / Assessment Years : 2024-25

Devnarayan Gaushala Samiti, Beawar Khas VIA Beawar District Ajmer, Ajmer	बनाम Vs.	CIT Exemption, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABTD 5800 G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. Mukesh Agarwal (CA)
राजस्व की ओर से / Revenue by : Sh. Ajay Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 07/03/2024
उदघोषणा की तारीख / Date of Pronouncement: 29/04/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

The present appeal arises out of the order of the Commissioner of Income Tax (Exemption), Jaipur dated 13/12/2023 [here in after (Id. CIT(E)] vide which the registration of the assessee trust under section 12AB was rejected. While rejecting the application the Id. CIT(E) noted that the application of the assessee was not complete, assessee has not submitted the registration certificate under Rajasthan Public Trust Act and non-compliance on the part of the assessee and therefore, the Id.CIT(E) could

not see the genuineness of the Activities of the trust. Against this decision of the Id. CIT(E) the present appeal of the assessee.

2. In this appeal, the assessee has raised following grounds: -

“1. That the Id. CIT is not justified in law and on facts of the case in rejecting the registration granted u/s 12AB without affording sufficient and proper opportunity.

2. That the Id. CIT is grossly erred in law and on facts of the case in rejecting the registration granted u/s 12AB while deciding on the application for approval u/s 80G and treating the assessee as of foreign.”

3. Succinctly, the fact as culled out from the records is that the assessee is a society registered with Registrar of Societies, Ajmer under Rajasthan Societies Registration Act, 1958 since 1/11/2002 vide Registration No. 119/Ajmer/2002-03. That the assessee is registered with Directorate of Gau Sewa, Pashu Palan Vibhag, Rajasthan, Jaipur under Rajasthan Gaushala Act, 1960 since 13/06/2014 too. That the assessee was provisionally registered u/s 12A(1)(ac)(vi) on 27/1/2023 for period of AY 2023-24 to 2025-26 by PCIT, CPC.

4. That the Id. CIT(E) made the order rejecting the assessee's claim u/s 12AB by referring assessee's so called application for approval u/s 80G and treating the assessee as Foreign as given in his addresses in the

order. The Id. CIT(E) also noted that the assessee was given three opportunities, but the assessee has not complied and thus in the absence of the requisite details the Id. CIT(E) could not verify the genuineness of the activities carried out by the assessee and based on that set of facts the application for registration u/s. 12AB was rejected based on the fact that the application of the assessee was not complete, assessee has not submitted the registration certificate under Rajasthan Public Trust Act and non-compliance on the part of the assessee and therefore, the Id. CIT(E) could not verify the genuineness of the Activities of the trust. The relevant finding of the Id. CIT(E) is reiterated here in below :

“However, the application has failed to comply with the letters, despite being given three opportunities details of which given in para-1. In the absence of such details, it could not be determined whether the applicant is genuinely carrying out charitable activity as per its objects. Therefore, the application’s claim of registration u/s 12AB is also liable to be rejected on ground of not proving its genuineness of activity.

05. In view of above discussion assessee’s claim of registration section 12AB is liable to be rejected and thus being rejected on following grounds:-

- Incomplete Form 10AB
- Rajasthan Public Trust Act, 1959.
- Genuineness of Activities & Non-compliance.”

5. Feeling dissatisfied the assessee has preferred this appeal on the grounds as reiterated here in above para 2. To support the various grounds so raised the Id. AR appearing on behalf of the assessee has placed their written submission which is kept on record. The Id. AR of the assessee

mainly contended that the Id. CIT(E) reported to have issued notices online on email address to aadts6780q@gmail.com which does not belong to the assessee but belongs to his previous AR. (paper book page no. 22) and there was not copy served to the assessee. The assessee in support of this contention filed an affidavit of his authorized representative submitting that the Id. AR due to his personal occupation in the CMA exam he did not find attention and in turn could not inform the assessee also. In support of the contentions so raised in the written submission reliance was placed on the following evidence / records:

s No	PARTICULARS	Dated	Authority before/by whom it was filed/issued	PAGE
				NO.
1	Registered Constitution with Registrar of Societies Ajmer		CIT(E)	1-14
2	Registration Certificate	1/11/2002	CIT(Exemption)	15
3	Registration with Directorate of Gau Sewa, Pashu Palan Vibhag Rajasthan, Jaipur	13/6/2014		16
4	Form 10AC for registration u/s.12A	27/1/23	Online	17-18
5	Form 10AC for Approval u/s.80G(4)	27/1/23	Online	19-20
6	Notice of Devsthan Vibhag for 27/2/2023	20/12/22		21
7	Site print out of.Email Address where notice sent		Online	22
8	Affidavit of Previous AR	23/1/24		23-24

6. Per contra, the Id. DR representing the revenue categorically submitted that the assessee was given sufficient time of submitting the

details on three occasion but the assessee miserably failed to support the requirement of registration and therefore, Id. CIT(E) has rightly rejected the claim of the assessee for registration and therefore, the assessee do not deserves any relief.

7. We have heard the rival contentions and perused the material placed on record. It is not disputed that there notices were issued to the assessee but the same was on the address given by the Id. AR of the assessee. The Id. AR of the assessee filed the proof that he was issued the notice and CC was not marked to any other email id of the assessee. The Id. AR of the assessee submitted that as he was preoccupied for his CMA exam he could not inform or reply the issue of the notice. The content of the facts filed on affidavit suggest that the for the negligent act of the Id. AR of the assessee, the assessee should not suffer. The assessee by filling the affidavit of the Id. AR of the assessee submitted that the burden of non-compliance has valid reason the assessee is deprived of the natural justice before the Id. CIT(E). Thus, on careful consideration of the facts of the case available on record we are of the considered view that the assessee is deprived of the justice and therefore, we are of the view that the assessee in the interest of principles of natural justice be given an opportunity of being heard by the Id.

CIT(E) based on the peculiar set of circumstances argument by the Id. AR of the assessee. Therefore, we see no harm in providing one more opportunity of being heard to the assessee. In case, however, if the assessee even in this remand proceeding does not fully cooperate in expeditious disposal of remanded proceedings, learned CIT(E) will be at liberty to take such action as deems fit and proper and judicious. The matter is thus restored to the file of the learned CIT(E) for adjudication de novo after affording yet another opportunity of hearing to the assessee, by way of a speaking order, and in accordance with the law. Ordered, accordingly.

In the result the appeal of the assessee is allowed for statistical purposes in the terms of observations as indicated above.

Order pronounced in the open court on 29/04/2024.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 29/04/2024

*Ganesh Kumar, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Devnarayan Gaushala, Ajmer
2. प्रत्यर्थी / The Respondent- CIT (Exemption), Jaipur
3. आयकर आयुक्त / The Id CIT

4. आयकर आयुक्त(अपील)/The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 70/JP/2024)

आदेशानुसार/ By order,

सहायक पंजीकार/ Asst. Registrar