

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

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

I.T.A. No.1114/Ahd/2023  
(Assessment Year: N.A.)

Ambica Foundation, F/44, Samrajya 1, Mujmahuda Road, Akota, Vadodara-390020	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No.AAHTA6558L]		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Samir Parikh, A.R.
<b>Respondent by:</b>	Shri Sanjay Punglia, CIT DR
<b>Date of Hearing</b>	29.04.2024
<b>Date of Pronouncement</b>	20.05.2024

**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 öLd. CIT(E)ö), Ahmedabad vide order dated 01.11.2023.

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

- “1. The learned Hon. CIT Exemption is not correct in rejecting registration u/s 12A(1)(ac)(iii) of the Income Tax Act.
2. The learned Hon. CIT Exemption has erred in stating that the assessee has failed to prove the charitable nature and the genuineness of its activities and also compliance of requirements of any other law for the time being in force.
3. The trust is requesting you to allow the appeal of Appellant for non granting registration by Hon. CIT Exemption.
4. Alternatively appeal is allowed by set aside the order and matter referred back to the desk of Hon. CIT Exemption for reconsideration.

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5. *Appellant craves leave to add, alter or amend any of the grounds of Appeal mentioned above, either at or before the time of hearing.”*

3. The brief facts of the case are that the assessee is a Charitable Trust registered under the Bombay Public Trust Act, 1950 in the year 2019 for the purpose of providing education. It runs Nursery and Primary school. The assessee Trust provides education also to students who are covered under Right to Education coming from lower middle class family. The Trust filed an application for registration under Section 12(1)(ac)(iii) on 27.05.2023 in Form 10AB. In reference to the application filed by the applicant in Form 10AB, CIT(E) requested the applicant to submit certain details/documents vide notices dated 03.10.2023 and 16.10.2023. In response to the said notices, the applicant neither filed any submission nor sought any adjournment in this case. Hence, in absence of the requisite details, CIT(E) decided the case on the basis of material/details/documents available on record. On perusal of the documentary evidences submitted along with the present application filed in Form No. 10AB under Section 12A(1)(ac)(iii) of the Act, CIT(E) observed that the applicant has failed to furnish various details which are essential to decide the application as per Income Tax Rules. The CIT(E) was of the view that the assessee/applicant failed to file documentary evidence to establish the genuineness of the activities of the trust or institution, failed to establish that the activities of the trust or institution are in consonance with the objects of the trust or institution, and also failed to establish that other laws material for the purpose of achieving objects have been complied with by the assessee/applicant trust. In view of the above, CIT rejected the application filed by the applicant/assessee in Form No. 10 AB under Section 12A of the Act.

4. The assessee/applicant is in appeal before us against the aforesaid order passed by CIT(E). The Counsel for the assessee submitted that the C.A. of the assessee could not file response to the first notice on account of inadvertence on his part. Further, it was submitted before us that before the written submission could be filed in response to the second notice issued by the CIT(E), the portal for making the submissions had closed. The Counsel for the assessee further submitted that the CIT issued to notices dated 03.10.2023 and 16.10.2023 at very close intervals, and accordingly, the applicant/assessee could not respond to the same. Further, the Counsel for the assessee submitted that the order passed by CIT rejecting the application of the assessee was passed on 01.11.2023, which was one month prior to the last date of passing the order by CIT(E). The Counsel for the assessee submitted that if given an opportunity, the assessee/applicant trust shall be able to satisfy the CIT regarding the genuineness of the activities of the applicant/assessee. Further, the Counsel for the assessee submitted that appellant has filed requisite details along with application including audited accounts and other documents filed alongwith the application. From the audited accounts, it is clear that appellant is carrying educational activities. The applicant/assessee has shown the genuineness of the activities and activities are in consonance with the objects of the trust. The Counsel for the assessee submitted that appellant has a good case on merit and if one more opportunity is given to furnish documentary evidence to prove the genuineness of activities, the appellant would furnish complete details to the satisfaction of Ld. CIT(E).

5. In response, DR placed Reliance of the order passed by CIT(E).

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6. We have heard the rival contentions and perused the material on record. On going through the instant facts, we are of the considered view that in the interest of justice, the applicant/assessee should be given another chance to prove the merits of the case. Accordingly, in the interest of justice, the matter is restored to the file of CIT for de-novo consideration, after giving the opportunity of hearing to the assessee/applicant interest to present its case on merits.

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

<b>This Order pronounced in Open Court on</b>	<b>20/05/2024</b>
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**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 20/05/2024

TANMAY, Sr. PS

**TRUE COPY**

**आदेश क० त०/ल० अ० प्रत/Copy of the Order forwarded to :**

1. अपीलाथ / The Appellant
2. प्रत्यथ / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. त्रभागीय त्रलक्ष, आयकर अपील त्र अधकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गाडफाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपील त्र अधकरण, अहमदाबाद / ITAT, Ahmedabad