

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 411/JPR/2024

Adarsh Sarswati Mahila Shiksha And Garamin Vikas Samiti, Tonk	बनाम Vs.	CIT Exemption, Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AABTA 3562 A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Ashish Sharma (Adv.)
राजस्व की ओरसे / Revenue by : Shri Rajesh Ojha (CIT-DR)

सुनवाई की तारीख / Date of Hearing : 03/06/2024
उदघोषणा की तारीख / Date of Pronouncement : 04/06/2024

आदेश / ORDER

PER: NARINDER KUMAR, J.M.

By way of present appeal, appellant Samiti, named above, has challenged order dated 08.02.2024 passed by Learned CIT(Exemption).

2. Vide impugned order Id. CIT(Exemption) rejected the application filed by the applicant u/s 12AB of the Income Tax Act (hereinafter referred to as "the Act") for its registration under the Act.

In brief, following are the grounds made basis for rejection of the application:

- That Form 10AB submitted by the applicant was found incomplete;
- That it was a case of non compliance with local law of the State i.e. Rajasthan Public Trust Act, 1959, as regards registration of the applicant thereunder; and
- That the applicant could not prove and satisfy on the aspect of genuineness of its activities.

3. As to the discussion by Learned CIT(Exemption) on the subject, following paragraph available at page 16 of the impugned order is reproduced for ready reference:

“However, the applicant has failed to comply with the letters, despite being given three opportunities details of which given in para-1. All the above details were sought in order to determine the actual working of the institution. The applicant didn't furnish the sought details. The applicant has not furnished the details along with bill/ vouchers of expenses debited in income and expenditure account for the last three financial years. Further, the assessee was also not submitting the details of bank account for the F.Y. 2022-23 to till date. The above details were sought from the applicant to determine the actual purpose/nature of expenditures made and to determine whether the impugned charitable activity had actually been done by the trust or not. Such type of verification is necessary to keep a check and balance on the actual working of the trust. Since, the applicant didn't furnish sought details, in the absence of such documents/details, the justification of impugned activity could not be derived and it is not known whether the applicant is genuinely carrying out charitable activity as per its objects. Hence, the applicant has failed to justify the genuineness of activities and thus falls out of the scope of registration u/s 12AB of the Act.”

4. Feeling dissatisfied with the impugned order, applicant is before this Appellate Tribunal.

Arguments heard. File perused.

5. As noticed above, one of the grounds for rejection of the application filed under the Act is that the applicant failed to prove its registration under Rajasthan Public Trust Act, 1959.

So, learned CIT(Exemption) was of the view that the applicant was not eligible for registration u/s 12AB of the Act.

In the course of arguments, Id. AR for the appellant has submitted that proceedings for registration of the applicant under Rajasthan Public Trust Act, 1959 were pending before the competent authority under that Act, and as such a request was made before Id. CIT(Exemption) seeking postponement of the application u/s 12AB upto the end of February, 2024, to enable the applicant to produce requisite certificate of registration under the Public Trust Act, 1959. The contention is that Id. CIT(Exemption) did not grant time to the applicant in this regard, and as such reasonable opportunity was not provided to the applicant.

Ld. AR for the appellant has further highlighted that the applicant presently stands registered under Rajasthan Public Trust Act, 1959 as per certificate issued to it, and that in the given situation, matter may be restored to the files of Id. CIT(Exemption) for decision afresh, as said condition under the Income Tax Act stands fulfilled.

On behalf of the appellant, Learned AR has submitted a photocopy of certificate of registration of the applicant issued under Rajasthan Public Trust Act.

6. The impugned order is dated 08.02.2024. As per record, notices dated 11.12.2023, 26.12.2023 and 27.01.2024 were issued to the applicant by Learned CIT(E), by way of opportunities to comply with directions contained therein.

7. When on behalf of the applicant, it was brought to the notice of Learned CIT(E) that proceedings for registration of the applicant under Rajasthan Public Trust Act were pending before the competent authority and adjournment was sought on behalf of the applicant, Learned CIT(Exemption) ought to have granted one more opportunity to the applicant, at its request, to produce requisite certificate.

The fact remains that matter was disposed of, while not acceding to the request of the applicant.

Undisputedly, the applicant has been issued certificate of registration under Rajasthan Public Trust Act, even though subsequently. Said certificate is of much significance so far as compliance with the conditions for registration under Income Tax Act is concerned. Therefore, applicant deserves an opportunity for its production before Learned CIT(E).

8. The other ground for rejection of the application is that the applicant failed to produce requisite documents to prove genuineness of its activities.

In this regard, Learned AR for the appellant has submitted that various documents were submitted by the applicant before Id. CIT(Exemption), but same appear to have not been considered before passing the impugned order.

In this regard, Learned AR for the appellant has submitted before this Appellate Tribunal, copy of letter dated 05.02.2024 addressed by the applicant to Id. CIT(Exemption).

As per contents of said letter dated 05.02.2024 various documents and informations were provided by the applicant to Id. CIT(Exemption). Had Learned CIT(E) considered and discussed said documents or information provided by the applicant, it would have been a different matter. Then, this Appellate Tribunal would have considered if Learned CIT(E) was justified in rejecting said material while passing the impugned order.

However, the impugned order dated 08.02.2024 does not reveal that Id. CIT(Exemption) took into consideration any of the documents and the information submitted by the applicant on 05.02.2024. Therefore, on this ground also, the impugned order deserves to be set aside.

9. Third reason for rejection of the application is that the application submitted in form 10AB was incomplete due to the following grounds:

- Self-certified copy of existing order of granting registration u/s 12A (Rule 17A(2)(e)) .
- Self-certified copies the annual accounts of the applicant for F.Y. 2022-23 to till date. (Rule 17A(2)(g)).
- Note on activities of the applicant (Rule 17A(2)(k)).

As is available from copy of letter dated 05.02.2024, referred to above, and submitted by the applicant to Id. CIT(Exemption) photographs of some activities of the applicant were also submitted therewith for perusal.

In addition thereto, copy of audited financial papers for the last 3 years were also presented.

Copies of ITR and audited report were also attached thereto.

The applicant was registered u/s 12AA of the Act on 16.08.2016. It stands so recorded in copy of the approval u/s 80G(5)(vi) of the Act made available by Learned AR for the appellant.

These documents do not appear to have been considered by Learned CIT(E) while passing the impugned order.

Conclusion

10. In the given facts and circumstances, we deem it a fit case to restore matter to the files of Id. CIT(Exemption) for fresh decision on application u/s

12AB of the Act filed by the appellant, in accordance with law, after providing to the applicant reasonable opportunity of being heard.

Result

11. As a result, this appeal is allowed for statistical purposes and the matter is restored to the files of Id. CIT(Exemption) for fresh decision on the application u/s 12AB of the Act, in accordance with law, after affording to the applicant reasonable opportunity of being heard .

Order pronounced in the open court on 04/06/2024.

Sd/-

(राठौड़ कमलेश जयन्तभाई)

(RATHOD KAMLESH JAYANTBHAI)

लेखा सदस्य / Accountant Member

Sd/-

(नरेन्द्र कुमार)

(NARINDER KUMAR)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 04/06/2024

*Ganesh Kumar, Sr. PS

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Adarsh Sarswati Mahila Shiksha and Garamin Vikas Samiti, Tonk
2. प्रत्यर्थी / The Respondent- CIT Exemption, Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 411/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar