

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "B", अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
" B " BENCH, AHMEDABAD

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTNAT MEMBER

ITA No.410/Ahd/2024

Assessment Year : -

Manek Nivas Dharamshala Near Sahid Bhuvan at Dakor Tal.Thasra Dist. Kheda - 388 225 (Gujarat)	Vs	The CIT (Exemption) Ahmedabad
PAN:		

अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Chetan Shah, AR
Revenue by :	Shri Sudhendu Das, CIT-DR

सुनवाई की तारीख/Date of Hearing : 12/06/2024
घोषणा की तारीख /Date of Pronouncement: 14/06/2024

आदेश/ORDER

PER SHRI MAKARAND V. MAHADEOKAR, AM:

This appeal by the Assessee-trust is directed against the order of the Ld.Commissioner of Income Tax (Exemptions), Ahmadabad [hereinafter referred to as "the Ld.CIT(E)"], dated 28-01-2023, wherein the application for registration under section 12AB of the Income Tax Act, 1961 [hereinafter referred to as "the Act"], was rejected.

2. The assessee has raised the following grounds of appeal:

"1. Your honor is requested to condone the delay in filling this Appeal, as there was global COVID-19 pandemic during the period 15.03.2020 to 28.02.2022. And in this COVID-19 pandemic, two adult son of the managing trustee were expired. Due to age constrain of the managing

trustee and lack of the computer knowledge, access on the e-filing portal was not availed. One of the son of the managing trustee who was handling the administrative and taxation matter, expired on 14/06/2021 and hence, managing trustee was not aware about the rejection Order passed by the Hon'ble CIT (EXEMPTION) AHMEDABAD. Much later, on receipt of the Show Cause Notice from the Income tax Department on 09/02/2024, managing trustee came to know about the Rejection Order.

2. *The Commissioner of Income Tax (Exemption) Ahmedabad has erred in Law and on facts, in rejecting the application in form 10AB U/S 12AB of the Income Tax Act, 1961, on non-satisfaction of genuineness of the activities of the trust.*
3. *The CIT(Exemption) has erred in law, in over-looking and in summarily rejecting and not considered, the tangible material available with him.*
4. *Your appellant craves, leave to add, alter, & or to emend modify substitute all or any ground of appeal before final hearing if necessity so arise."*

Facts of the case:

3. The assessee-trust had filed an application in Form 10A on 30.12.2021 for registration under section 12A(1)(ac)(vi) of the Act. The Ld.CIT(E) granted the registration up to Assessment Year (AY) 2024-25 vide order dated 06.01.2022 in Form 10AC. Subsequently, the trust, realizing that the application was mistakenly filed under section 12A(1)(ac)(vi) of the Act instead of 12A(1)(ac)(i) of the Act, filed Form 10AB for registration under section 12AB of the Act. The Ld.CIT(E) issued several notices to the assessee trust regarding this application. However, the assessee failed to respond to these notices. Consequently, the Ld.CIT(E) disposed of the application based on the material available on record, concluding that the trust failed to satisfy the genuineness of its activities and its objects as required under the Act.

On the Grounds of appeal:

4. The assessee-trust has explained the delay in filing the appeal before the Tribunal. It was submitted that the managing trustee faced age-related constraints, and the unfortunate demise of his two adult sons during the COVID-19 pandemic further exacerbated the situation. These circumstances led to the trustee being unaware of the rejection order issued by the Ld.CIT(E).

5. The Ld. Departmental Representative stated that since the Ld.CIT(E) has not decided the matter on merits, it will be apt to refer the matter back to Ld.CIT(E).

6. We have heard the learned representatives of both parties and perused the material on record. The primary issue for our consideration is whether the delay in filing the appeal should be condoned and whether the matter should be remanded back to the Ld.CIT(E) for a fresh decision on merits.

6.1. Considering the submissions and the circumstances detailed by the assessee-trust, particularly the age constraint of the managing trustee and the tragic demise of his sons, we find that there exists sufficient cause for the delay in filing the appeal. The Hon'ble Supreme Court in the case of **Collector, Land Acquisition v. Mst. Katiji & Ors. [(1987) 2 SCC 107]** emphasized that a liberal approach should be adopted in condoning delays to advance substantial justice. Following this principle, we are inclined to condone the delay in filing the appeal.

6.2. On the merits of the case, it appears that the Ld.CIT(E) has not had the benefit of a full and comprehensive response from the assessee-trust due to the reasons mentioned. In the interest of justice and fair play, we deem it appropriate to set aside the order of the Ld.CIT(E) and remand the matter back to the file of the Ld.CIT(E) for a fresh adjudication. The assessee-trust is directed to adhere to the timelines set by the Ld.CIT(E) and to fully cooperate in the proceedings.

6.3. In view of the above, we hereby:

- i. Condone the delay in filing the appeal by the assessee-trust.
- ii. Set aside the order of the Ld.CIT(E) dated 28/01/2023 and remand the matter back to the file of Ld.CIT(E) for a fresh decision on merits, after giving the assessee an opportunity to present its case.

6.3. Accordingly, the appeal filed by the assessee-trust is allowed for statistical purposes.

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

Order pronounced in the Open Court on 14th June, 2024 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(MAKARAND V.MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad, Dated 14/06/2024

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/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(E)-Ahmedabad
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad