

**IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL
MEMBER**

&

SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITA No. 4415/Mum/2023

(A.Y. 2021-22)

Anjuman Ekhadime Hussain Trust 101 Zabib Palace, Off Panch Marg, Off Yari Road, Andheri (W.), Maharashtra-400061	Vs.	ITO-Exemption-1(1) Aayakar Bhawan, Mumbai, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AABTA4720E		
Appellant	..	Respondent

Appellant by :	Shri. Rachit Gajera
Respondent by :	Shri. Nagnath Pasale

Date of Hearing	29.05.2024
Date of Pronouncement	24.06.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the appellant against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 01.11.2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for the relevant Assessment Year [A.Y.] 2021-22.

2. The grounds of appeal raised by the assessee as under:

“1. Ld. CIT(A), NFAC erred in law as well as on facts in passing the appellate order u/s. 250 of the Income Tax Act, 1961 which is bad in law as invalid

2 Ld. CIT(A) NFAC erred in law as well as on facts in upholding the validity of rectified intimation u/s. 143(1) r.w.s 154 of the act.

3 Ld. CIT(A), NFAC erred in law as well as on facts in failing to appreciate the fact that the appellant is a Charitable trust duly registered under section 12A of the act and consequently entitled to claim exemption u/s 11 and 12 of the

4 Ld. CIT(A), NFAC erred in law as well as on facts in upholding the disallowance under section 11 of the act of ₹ 43,69,470/-

5. Ld. CIT(A), NFAC erred in law as well as on facts in failing to appreciate the legal position that amendment to provision of section 12AB of the act are applicable from AY. 2022-23 and not from the AY. 2020-21 and consequently passed the order under wrong presumption of legal position

6. Ld. CIT(A), NFAC erred in law as well as on facts in failing to appreciate the fact that adjustment on account of disallowance of exemption u/s 11 of the act could not be made while processing the return of income.”

3. Brief facts of the case are as under:

- a. The assessee is a charitable trust registered u/s 12A of the Act vide registration dated 29.06.1995. The return declaring nil income was filed on 09.10.2021 for AY 2020-21. The same was processed u/s 143(1) on 20.09.2022 wherein the claim of deduction u/s 11 of the Act was disallowed and income was assessed at Rs. 43,69,470/-. The assessee filed rectification application u/s 154 of

the Act against the intimation u/s 143(1) and the same was rejected by the AO vide order dated 02.02.2023.

- b. Aggrieved with the order, the assessee filed an appeal before the Ld. CIT(A)/NFAC. However, the assessee's appeal was dismissed by the Ld. CIT(A) after observing as under:

“6. However, perusal of registration u/s 12A vide Form No. 10AC reveals that registration is effective from A.Y 2022-23 to A.Y. 2026-27 and thus, there was no registration u/s 12A for the A.Y. 2021-22 under appeal. The clause 8 & 9 of the registration under clearly states the effective date i.e. A.Y. 2022-23 onwards. In the given situation, the rectification order of AO (CPC) cannot be interfered with and hence, ground No. 1 to 4 of the appellant are dismissed.”

- c. Aggrieved with order of the CIT(A), the assessee is in appeal before us. During the course of hearing, the Ld. AR submitted as under:

- i. Pursuant to the change in process of registration/re-registration, the assessee was required to apply for, and obtain fresh registration. Although, the amended provisions were brought in w.e.f 01.06.2020, the CBDT vide circular No. 16/2021 dated 29.08.2021 granted extension of time for filing application in Form 10A upto 31.03.2022. Accordingly, the assessee had applied in form 10A on 09.10.2021 and the registration has been granted on

16.10.2021 in form 10AC. Since, the assessee was already registered u/s 12A since 1995 and fresh registration was granted from AY 2022-23 to 2026-27, therefore, for the year under consideration, the old registration was valid.

4. We have heard the rival submissions and perused the material available on record. It seen that the new scheme for registration which was brought in the Act w.e.f. 01.06.2022, originally allowed time for filing of various forms for registration upto 31.06.2021. However, due to difficulties faced by the assesseees and during Covid period, the CBDT vide circular No. 12/2021 dated 25.06.2021, extended the time for filing of forms upto 31.08.2022. Thereafter, vide Circular No. 16/2021 Dated 29.08.2021, this time was further extended upto 31.03.2022.
5. In this case, the assessee trust was duly registered under 12A of the Act w.e.f. 29.06.1995. He filed the application for fresh registration on 09.10.2021, well within the extended time allowed. Accordingly, the registration was granted w.e.f. AY 2022-23. There was no reason to presume that the assessee did not have a valid registration for the year under consideration, since the old registration remained valid. Accordingly, we hold that the CIT(A) has erroneously inferred that the effective date of registration is AY 2022-23 onwards and that the assessee did not have registration for AY 2021-22. As such the assessee's

claim of having valid registration during AY 2021-22 is upheld and it is entitled to claim exemption u/s 11 of the IT Act.

6. In the result, the appeal filed by the assessee is allowed.

Order Pronounced in Open Court on 24.06.2024

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Place: Mumbai

Date 24.06.2024

ANIKET SINGH RAJPUT/STENO

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.