

आयकर अपीलिय अधिकरण, अहमदाबाद त्रायपीठ 'C' अहमदाबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA Nos.790 & 791/Ahd/2024
Assessment Year: N.A.

Shri Kaliya Thaker Ni Jagya Gaushala Trust (Gediya Dham) Ya Gaushala Trust Gediya Dham, Gediya Dasada Patdi, Surendranagar-382745	Vs	The Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No.:ABATS9789B]		
अपीलाथ/ (Appellant)		प्रत्यथ/ (Respondent)

ITA Nos.1128 & 1129/Ahd/2024
Assessment Year: N.A.

Shri Sitaram Gaushala And Charitable Trust, Panch Siddh Hanuman Mandir, Ram Society, Dalmil Road, Wadhwan, Surendranagar-363001	Vs	The Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No.:ABETS9753K]		
अपीलाथ/ (Appellant)		प्रत्यथ/ (Respondent)

Appellant by :	Shri Mehul K. Patel, A.R.
Respondent by :	Shri Kamlesh Makwana, CIT DR

सुनवाई का ताराख/Date of Hearing:	20.06.2024
घोषणा का ताराख /Date of Pronouncement:	25.06.2024

आदेश/O R D E R

PER BENCH:

These bunch of appeals are filed by different assessesees denying final registration under Section 12AB and 80G(5) of the Income Tax Act, 1961 as against the orders passed by Commissioner of Income Tax (Exemption) as follows:

Sr. No.	ITA No.	Name of the Assessee	Order under Section & Date	Delay in filing appeal before ITAT	Remarks
1.	790/Ahd/2024	Shri Kaliya Thaker Ni Jagya Gaushala Trust	12AB 26.02.2024	NIL	Ex-parte order
2.	791/Ahd/2024	Shri Kaliya Thaker Ni Jagya Gaushala Trust	80G 06.03.2024	NIL	Late filing of Form 10AB
3.	1128/Ahd/2024	Shri Sitaram Gaushala And Charitable Trust	12AB 16.02.2024	41 days	Wrong provision of Law
4.	1129/Ahd/2024	Shri Sitaram Gaushala And Charitable Trust	80G 04.03.2024	24 days	Late filing of Form 10AB

2. The Registry has noted that there are delays in filing two appeals before this Tribunal. Respective Assessee Trusts have filed separate Notarized Affidavits explaining the delay in filing the appeal as follows:-

“That I am not at all conversant with the Income Tax matters nor do I operate computers or log into the Income Tax Portal. Our Trust has never faced Income Tax litigation in the past. It was only recently in the month of April, 2024, that I came to know about rejection of Exemption / Registration u/s 10(23C) of the Act in the case of one Trust of Anand in case of Mahek Charitable Trust. Then, immediately, we contacted our CA and inquired about the status of our Trust, and came to know that our application u/s 12AB is rejected by CIT(Exemption), Ahmedabad vide order dated 19/02/2024. Thereupon, we were advised that we have to file appeal before Hon’ble ITAT against the said order, and we entrusted the matter to Advocate at Ahmedabad to prepare and file the appeal before Hon’ble ITAT, Ahmedabad Bench.

Hence, the delay has occurred due to this bonafide reason and unavoidable circumstances, and in the interest of justice, the delay in filing this appeal, may kindly be condoned, and appeal may kindly be decided on merits, and oblige.”

3. The Ld. Counsel Mr. Mehul K. Patel appearing for the assessee brought to our notice the various Circulars issued by CBDT and the latest Circular No. 7/2024 dated 25.04.2024, wherein the Board under Section 119 of the Act, with a view to avoid and mitigate genuine hardship in late filing of the applications, the Board has extended time till 30.06.2024 for registration under Section 12AA and Section 80G(5) of the Act. Therefore, pleaded to condone the delay in filing the appeals by the respective assessee trust. Further, the above Assessee Trusts are located in small and remote places of Surendra Nagar Gujarat and they could not comply with the e-filing procedure and the delay may be condoned. Ld. CIT-D.R. Shri Kamlesh Makwana appearing for the Revenue has no serious objection in condoning the delay. Thus, the delays in filing the appeals before this Tribunal by the Assessee Trusts are hereby condoned.

4. Ld. Counsel submitted the assessee was provided hearing notices by email by Ld. Commissioner of Income Tax (Exemption), the assessee neither filed any submissions nor sought for any adjournment. Therefore, the application for registration under 12AA of the Act was being rejected by passing ex-parte order. The Ld. Counsel further submitted though the Assessee Trust filed its application within the due date prescribed under the Act, it could not response to the email notices issued to the Assessee Trust. However, the Ld. Counsel under taken that it has all relevant materials and evidences in support of its claim for final registration under Section 12AB of the Act and the Assessee Trust was already

granted provisional registration by Ld. C.I.T(E), therefore, in the interest of justice prayed that one more opportunity be given to the Assessee Trust for final registration under the Act.

5. Ld. CIT-D.R. has no serious objection in setting-aside the matter to the file of Ld. CIT(E) but with a condition that the Assessee Trust should make use of this final opportunity and produce all necessary documents and details before CIT(E).

6. Heard rival submissions, and perused the materials available on record. We hereby set-aside in ITA No. 790/Ahd/2024 back to the file of Ld. CIT(E) to give one more opportunity of hearing to the Assessee Trust. Needless to say the Assessee Trust should furnish all the relevant material, document and the record for final registration of the Trust under the Act and Ld. CIT(E) pass orders in accordance with law.

7. In the result, **the appeal filed by the Assessee Trust in ITA No. 790/Ahd/2024 is allowed for statistical purposes.**

8. Remaining appeals namely ITA No. 791/Ahd/2024, 1128/Ahd/2024 and 1129/Ahd/2024 are late filing of Form 10AB and quoting wrong provision of law by the respective Assessee Trusts for registration under Section 80G(5) of the Act. As per the CBDT Circular No. 7/2024 dated 25.04.2024 the same are covered by Para 4.1 of the Circular which reads as under:-

*“4.1 Further, in cases where any trust, institution or fund has already made an application in Form No. 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was **furnished after the due date** or that the application has been **furnished under the wrong section code**, it may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph 3(ii) i.e. 30.06.2024.”*

9. Thus, The appeals filed by Assessee Trusts are covered by the above Circular No. 7/2024 dated 25.04.2024. Accordingly, in the interest of justice, the above appeals are restored to the file of Ld. CIT(E) for de-novo consideration after giving due opportunity of hearing to the Assessee Trusts and thereafter pass orders in accordance with law.

10. In the result, **the appeals filed by the Assessee Trusts in ITA No. 791/Ahd/2024, 1128/Ahd/2024 and 1129/Ahd/2024 are allowed for statistical purposes.**

Order pronounced in the Court on 25.06.2024 at Ahmedabad.

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad, dated 25/06/2024
Tanmay, Sr. P.S. (True Copy)