

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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 138/JPR/2024

Aatman Foundation Trust T-1, Plot No. 18, Murlipura Scheme 4C, Sikar Road, Jaipur	बनाम Vs.	ITO, Ward-4(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAJTA3360J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri R.S. Poonia (C.A.)
राजस्व की ओर से / Revenue by: Shri Arvind Kumar (CIT)

सुनवाई की तारीख / Date of Hearing : 18/06/2024
उदघोषणा की तारीख / Date of Pronouncement: 01/07/2024

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This appeal is filed by the assessee aggrieved from the order of the Learned Commissioner of Income (Exemption), Jaipur[herein after referred to as "ld.CIT(E)"] dated 31.01.2024.

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

- "1. That the order passed by Ld. Commissioner of Income Tax, Exemption, Jaipur by rejecting application u/s 12AB(1)(b) of the I.T. Act, 1961 is wrong, unwarranted and bad in law. Kindly direct to register the same.*
- 2. That the appellant craves permission to add, to or amend to any of the above grounds of appeal or to withdraw any of them."*

3. Brief facts of the case are that the assessee filed online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 was filed on 19.07.2023. It is important to mention herewith the assessee was earlier filed form 10AB for seeking registration u/s 12AB on 18.09.2022, and the same was rejected by Id.CIT(E) on 24.02.2023 after giving three opportunities in the ground of non-registration with RPT and Genuineness of activity and non-compliance. Again the assessee has filed from 10AB on 19.07.2023 for seeking registration U/s 12AB of the I.T.Act, 1961. A letter/notice No. ITBA/EXM/F/EXM43/2023-24/1058029568(1) dated 17.11.2023 was issued at the e-mail/address provided in the application requiring the assessee to submit certain documents/explanations by 28.11.2023, but no compliance has been made by the assessee. Thereafter, a reminder letter was issued by Id. CIT(E) DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1058279454(1) dated 28.11.2023 wherein date of hearing was fixed as 06.12.2023. In compliance of the same the AR of the assessee was requested to adjourn the case vide letter dated 06.12.2023. Therefore, the case was adjourned to 20.12.2023 vide office DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1058629462(1) dated 11.12.2023. This time also on given date, the

applicant had not furnished any details/documents, Again, on 09.01.2024 the assessee has requested to adjourn the case. In response of the same, the case was adjourned to 15.01.2024 Ld. CIT(E) DIN & Notice no. ITBA/EXM/F/EXM43/2023-24/1059544941(1) dated 10.01.2024. Despite of four opportunity the assessee had not submitted and again requested for adjournment. The assessee has submitted its submission on 25.01.2024 but not found tenable by the ld. CIT(E). Thereafter, a show cause notice was issued to the assessee by ld. CIT(E) DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1060166638(1) dated 27.01.2024 wherein date of hearing was fixed on 29.01.2024, In response of the same the assessee has submitted the submission on 29.01.2024 but not found tenable.

4. Apropos to the application so filed by the assessee, the relevant findings of the ld. CIT(E) is reproduced here in below:-

“02. Non-Genuineness of Activities: -

2.1. It is important to mention here that while examining the claim of the assessee u/s 12AB of I.T. Act, the Commissioner of Income-tax has been empowered to call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf. Under such powers vested in CIT (E), the applicant vide letter dated 27.01.2024 was asked to file details like: -

1. Pl furnish point wise reply as sought by this office questionnaire dated 17.11.2023. 2. In response to query no. 5(II), you were asked to submit the details of expenses/application done with ledger accounts, bills/vouchers and other corroboration evidences in the desired format. However, you have not submitted the same. Therefore, you are once requested to submit bills/vouchers in the desired format so that genuineness of activity may be verified.

3. On perusal of the submission, you have mention that "our main objective is to provide quality mental health services and support through direct outreach and referralservices at free of cost". However, in the paper cutting it is mention that "सस्तीदरोंपरमेन्टलहेल्थकाउंसलिंगउपलब्धहो) जिसकीरेट 300 रूपयेसेज्यादानहो।". Further, nowhere in the deed it has been mentioned that these objects will carry out on no profit/cost to cost or free of cost basis. Therefore, furnish an explanation why the same should not be treated as mis-representation of facts and the application filed by you should not be rejected.

In response of the same the A/R of the applicant has furnished the reply an 29.01.2023 and submitted ledger a/c of expenses claimed and screenshot of Instagram and Website, in support of activities undertaken. Perusal of the same, again few discrepancies noticed, which were noted by the A/R of the applicant on note sheet and request to fumish reply thereon by 6.00 PM on 30.01.2024. Perusal of details furnished by the applicant it is noticed that: -

(a) The applicant has furnished only ledger account of the expenses claimed in I/E account for F.Y. 2022-23 wherein only payment entry [mention as through cash or bank) has been mentioned. No any details like to whom such payment has been made, for which purpose the payment made etc. is mention. For the sake of convenience, few ledger accounts are reproduced as under:..... -

(b) No bill vouchers of the expenses claimed in the Income and expenditure account, bank book/ cash book reflecting entries of these expenses were furnished by the applicant. Thus, it is not known:-

(1) Whether expenses are genuinely made or not,

(ii) Whether expenses are made for the objects of trust or not. Thus, genuineness of the activities remains unverifiable.

(c) In the I/E account, the applicant has shown following expenses, which are summarized as under: -

(i) Awareness material for Mental Health prog. of Rs.8450/- paid in cash as evident from the ledger a/c.

- (ii) Counsellor payment for patient of Rs.7500/- paid in cash as evident from the ledger a/c.
- (iii) Event and workshop for Mental Health Awareness of Rs.2900/- paid through banking channel.
- (iv) Social Media Campaigns for Awareness of Rs.7850/- paid in cash as evident from the ledger a/c
- (v) Audit fees of Rs. 11000/- paid on 02.11.2023 through bank as evident from the bank statement.
- (d) However, the applicant has failed to submit any bills/voucher or any proof of payment. No cash withdrawal is seen in the bank account for the F.Y. 2022-23 as most of the payment were made in cash. No cash book was submitted by the applicant. The details of beneficiary are not provided by the applicant so that it cannot be ascertain that to whom such payments were made. Corpus /trust fund of Rs. 21,000/- as mentioned in the trust deed at para-1, was also not reflected in Balance Sheet, Further, no Income and expenditure account for the F.Y. 2023-24 (provisionally/prepared) submitted by the applicant.

1. In light of above facts, genuineness of books of account as well as trust cannot be established. This makes trust ineligible for registration under section 12AB of IT Act.

03. In view of above discussion assessee's claim of registration section 12AB is liable to be rejected and thus being rejected on following grounds:-

Non-Genuineness of Activities.”

5. Aggrieved by the above order of the Id. CIT(E), the assessee has filed the present appeal before the Tribunal on the grounds as stated here in above. Apropos to the grounds so raised by the assessee, the Id. AR of the assessee filed a detailed paper book in support of the contentions so raised and index of the documents relied reads as under:-

S. No.	Particular	Page No.
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1.	Copy of acknowledgement of reply before CIT Exemption, Jaipur.	1
2.	Copy of reply before CIT Exemption, Jaipur	2-4
3.	Copies of bills and confirmation of payments submitted before CIT Exemption, Jaipur	5-16
4.	Copy of list of beneficiaries	17
5.	Copy of newspaper cutting regarding charitable activity conducted by assessee-trust	18-19
6.	Copy of bank account statement of assessee-trust	20-23

5.1 During the course of hearing, the ld. AR for the assessee prayed that the ld. CIT(E) has passed the order without providing adequate opportunity of being heard to the assessee. The ld. AR for the assessee submitted that they have submitted all the details on 31.01.2024 and on the same day order is passed. Therefore, the assessee may be provided one more opportunity to advance his arguments/submissions before the ld. CIT(E).

6. Per contra, the ld. DR relied on the orders of the ld. CIT(E) and submitted that various opportunities were granted but the assessee has not filed details in time.

7. We have heard the rival contentions and perused material available on record. The Bench noted from the order of the ld. CIT(E) that he has rejected the application of the assessee pertaining to registration of the

society u/s 12AB of the Act on the ground of Non-registration of the assessee with RPT Act, 1959, non genuineness of activities. It is also pertinent to mention that during the course of hearing, the ld. AR of the assessee prayed that he was deprived off availing adequate opportunity of being heard by the ld. CIT(E) in the application for registration/recognition. We note from the records available and show cause notice were issued by the ld. CIT(E) and reply has been filed by the assessee in response to notice. Further, we note that ld. CIT(E) has issued another notice with certain query which the assessee alleged that was replied on 31.01.2024 but the same was not considered by the Ld. CIT(E). The ld. AR for the assessee submitted that the assessee was not aware of the subsequent notice issued by the ld. CIT(E) and therefore, response could not be submitted. We note that the ld. CIT(E) has passed the order without providing adequate opportunity of hearing. The Bench does not want to go into merit of the case but it is imperative that the assessee must be provided adequate opportunity of being heard by the ld. CIT(E). In this view of the matter, the Bench feels that the assessee should be given one more chance to contest the case before the ld. CIT(E) and the assessee is directed to produce all the relevant papers concerning the application so filed before the ld. CIT(E) to settle the dispute raised hereinabove.

8. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

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

Order pronounced in the open court on 01/07/2024.

Sd/-
(राठोड कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur
दिनांक / Dated:- 01/07/2024

*Santosh

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

1. The Appellant- Aatman Foundation Trust, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, Ward-4(2), Jaipur.
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त (अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 138/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar