

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

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 525 & 526/JPR/2024

Shri Jamunadhar Jai Devi Johari Charitable Trust S 249, Mahaveer Nagar, Tonk Road, Jaipur.	बनाम Vs.	CIT Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAITS0453M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Rames Lakhera- Proxy
राजस्व की ओरसे / Revenue by: Shri Arvind Kumar (CIT)

सुनवाई की तारीख / Date of Hearing : 01/07/2024
उदघोषणा की तारीख / Date of Pronouncement: 04/07/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

The present two appeals filed by assessee, which are arising out of the order of the learned Commissioner of Income Tax (Exemptions), Jaipur dated 21.02.2024 & 31.03.2024 [here in after referred as "CIT(E)"].

2.1 In ITA No.526/JPR/2024 the assessee has raised following grounds: -

" Ground No. 1 CIT(E) has wrongly rejected the application for registration of assessee trust u/s 12A stating that Trust is not registered with RPT Act, 1959 whereas the trust is duly registered with sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No.

2006397015321 dated 30.12.2006 issued by the Sub Registrar of Trust under the State Government of Rajasthan Jaipur. Hence CIT(E) order should be made null and void and CIT(E) may be directed for granting 12A registration.

Ground No. 2 The appellant prays your honour to add, amend or alter all or any of the grounds of the appeal on or before the date of hearing.”

2.2 In ITANo. 525/JPR/2024 the assessee has raised following grounds: -

“Ground No. 1 CIT(E) has wrongly rejected the application for registration of assessee trust u/s 80G stating that the applicant is not eligible for approval under clause (ii) of first proviso to sub-section (5) of Section 80G of the Act, as not already registered under clause (i) or (iii) of first proviso to 80G(5) of the Act. Hence CIT(E) order should be made null and void and CIT(E) may be directed to grant 80G registration u/s 80G.

Ground No. 2 The Appellant prays your honour to add amend or alter all or any of the grounds of the appeal on or before the date of hearing.”

3. First, we take up the appeals of the assessee in ITA no. 526/JPR/2024, wherein the brief fact of the case are that the assessee filed an online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 was filed on 29.09.2023. A letter/notice No. ITBA/EXM/F/EXM43/2023-24/1058614696(1) dated 09.12.2023 was issued at the e- mail/address provided in the application requiring the assessee to submit certain documents/explanations by 20.12.2023. In response the assessee sought adjournment on 20.12.2023 through DAK but subsequently filed reply on 20.12.2023 which was examined and placed on record by the Id. CIT(E). Thereafter, a reminder letters was issued to the

assessee vide dated 05.01.2024 & 17.01.2024 wherein date of hearing was fixed on 12.01.2024 & 01.02.2024. In response to these notices the assessee sought adjournment on 12.01.2024 & 31.01.2024 through DAK. Further, a reminder letter also given vide dated 11.02.2024 and case was fixed on 15.02.2024. Again, reminder letter was given vide dated 23.02.2024 and case was fixed on 26.02.2024. In response the assessee filed its reply on 13.02.2024 through e-mail which was examined and placed on record by the Id. CIT(E). A show cause notice / letter was given on 16.03.2024 and case was fixed on 20.03.2024. In response the assessee furnishes its reply on 20.03.2024 which was also examined and placed on record by the Id. CIT(E). Since it was limitation matter, therefore the case was decided based on material available on record.

4. So far as the appeal in ITA No. 525/JPR/2024 we note that the said application for registration was not considered by Id. CIT(E) on the point that the applicant is not eligible for approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act since it was not already approved under clause (i) or (iii) of first proviso to sub-section (5) of section 80G. To clarify the same, the applicant was issued a letter/notice No. ITBA/EXM/F/EXM43/2023-24/1059417726(1) dated 05.01.2024 to withdraw its application in Form 10AB or to justify its claim for approval under clause

(ii) of first proviso to sub-section (5) of section 80G of the Act on or before 12.01.2024. However, the applicant didn't comply on the above show cause. Therefore, application filed on 29.09.2023 in Form 10AB for grant of approval under clause (ii) of first proviso to sub-section (5) of section 80G was hereby rejected as being in-fructuous.

5. Feeling dissatisfied with the order of the Id. CIT(E) the assessee has preferred these appeals on the grounds as reiterated here in above. Apropos to the ground so raised the Id. AR of the assessee submitted the following written submission:-

ITA No. 526/JPR/2024

“ The assessee Trust is a charitable trust working for Relief of the Poor implies all actions to assist the Poor who are needy and who deserve to be addressed and developing other learning skills in local schools and communities, provide inclusive education to children with special needs and work as a catalyst to bring sustainable change in the lives of the children and preservation of environment including watersheds, forests and wildlife. The assessee trust has been doing charitable activities for the past many years. Trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by the Sub Registrar of Trust under the State Government of Rajasthan Jaipur.

The assessee trust had filed Form 10A for Provisional Registration and the Provisional Registration was granted to the assessee in Form 10AC on 08.02.2022 with Unique Registration Number AAITS0453ME20212, valid till A.Y. 2024-25. The applicant filed application on 29.09.2023 in Form No. 10AB for seeking approval u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961. The assessee trust was issued a letter/notice No. ITBA/EXM/F/EXM43/2023-24/1058614696(1) dated 09.12.2023 requesting it to furnish certain documents/explanations by 20.12.2023. The trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by the Sub Registrar

of Trust under the State Government of Rajasthan Jaipur. Hence our trust is duly registered by the State Government of Rajasthan under The Rajasthan Trust Act, 1959. However, Trust Registration Certificate, Form 10AB and Charitable Activities were not considered, hence assessee trust is under appeal before your Honor.

With these facts and background of case, grounds of appeal are dealt as under:

Ground No. 1

CIT(E) has wrongly rejected the application for registration of assessee trust u/s 12A stating that Trust is not registered with RPT ACT, 1959 whereas the trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by the Sub Registrar of Trust under the State Government of Rajasthan Jaipur. Hence CIT(E) order should be made null and void and CIT(E) may be directed for granting 12A registration.

Ground No. 2

The appellant prays your honor to add, amend or alter all or any of the grounds of the appeal on or before the date of hearing.”

ITA No. 525-JPR-2024

“The assessee Trust is a charitable trust working for Relief of the Poor implies all actions to assist the Poor who are needy and who deserve to be addressed and developing other learning skills in local schools and communities, provide inclusive education to children with special needs and work as a catalyst to bring sustainable change in the lives of the children and preservation of environment including watersheds, forests and wildlife. The assessee trust has been doing charitable activities for the past many years. Trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by the Sub Registrar of Trust under the State Government of Rajasthan Jaipur. The assessee trust had filed Form 10A for Provisional Registration and the Provisional Registration was granted to the assessee in Form 10AC on 08-02-2022 with Unique Registration Number AAITS0453MF20228, valid till AY 2024-25. The applicant filed application on 29.09.2023 in Form No. 10AB vide Acknowledgement Number 345256790290923 for seeking approval u/s 80G(5)(ii) of the Income Tax Act, 1961. The Trust was issued a letter/notice No. ITBA/EXM/F/EXM43/2023- 24/1059417726(1) dated 05-01-2024 requesting it to furnish certain documents/explanations by 12-01-2024. Trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by

the Sub Registrar of Trust under the State Government of Rajasthan Jaipur. However, Trust Registration Certificate, 80G Provisional Registration and Charitable Activities were not considered, hence assessee trust is under appeal before your Honor.

With these facts and background of case, grounds of appeal are dealt as under:

Ground No. 1

CIT(E) has wrongly rejected the application for registration of assessee Trust u/s 80G stating that The applicant is not eligible for approval under clause (ii) of first proviso to sub section (5) of section 80G of the Act, as not already registered under clause (i) or (iii) of first proviso to 80G(5) of the Act. Hence CIT(E) order should be made null and void and CIT(E) may be directed to grant 80G registration u/s 80G.

Ground No. 2

The appellants pray your honor to add amend or alter all or any of the grounds of the appeal on or before the date of hearing.”

6. During hearing, the Id. AR of the assessee so far as in relation to the rejection of 12AB only objection of the Id. CIT(E) is that the assessee is not registered under the Rajasthan Public Trust Act, 1959. Whereas the trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by the Sub Registrar of Trust under the State Government of Rajasthan Jaipur. This being the mistake of the fact and is curable in nature and there is no other reason advancing while rejecting the registration of the assessee. As regards the application for the recognition of the assessee trust u/s. 80G of the Act the bench noted that the same is rejected as the assessee is not approved u/s. 12AB of the Act.

7. Per contra, the Id. DR relied on the detailed order of the Id. CIT(E) and did not raise any specific objection to the prayer of the assessee.

8. We have heard the rival contentions and perused material available on record. The bench noted the application of the assessee for registration u/s. 12AB was rejected on the objection of fact that the assessee is not registered under the Rajasthan Public Trust Act, 1959. But in the fact the Id. AR of the assessee submitted that the assessee trust is duly registered with Sub Registrar, Jaipur under the Rajasthan Public Trust Act, 1959 vide Registration Endorsement Serial No. 2006397015321 dated 30-12-2006 issued by the Sub Registrar of Trust under the State Government of Rajasthan Jaipur. Thus, in the interest of justice the Id. AR of the assessee submitted that the assessee be given a chance to defend this merit before the Id. CIT(E) and this mistake of the fact is curable in nature we considered the prayer of the assessee for registration of the trust u/s. 12AB of the Act and the 80G recognition application was rejected only on the ground that the assessee is not eligible for approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act since it was not already approved under clause (i) or

(iii) of first proviso to sub-section(5) of section 80G. Since, we are set aside the order in 526/JP/2024 for taking a fresh decision of registration of trust u/s. 12AB based on the facts discussed above. We also deem it fit to set aside the order of the Id. CIT(E) for recognition of the trust u/s. 80G of the Act and Id. CIT(E) should decide both the application a fresh.

In the result, for statistical purposes, both the appeals are treated as allowed.

Order pronounced in the open court on 04/07/2024.

Sd/-

(संदीप गोसाई)
(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

Sd/-

(राठौड कमलेश जयंतभाई)
(Rathod Kamlesh Jayantbhai)

लेखा सदस्य / Accountant जयपुर / Jaipur

दिनांक / Dated:- 04/07/2024

*Santosh

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

1. The Appellant- Shri Jamunadhar Jai Devi Johari Charitable Trust, Jaipur
2. प्रत्यर्थी / The Respondent- CIT(E), 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. 525& 526/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar