



**।आयकर अपीलीय अधिकरण "ए" न्यायपीठ जयपुरमें।**

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**JAIPUR BENCHES "A" :: JAIPUR**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER**

**AND**

**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.482/JPR/2024**

**निर्धारण वर्ष / Assessment Year : 2022-23 to 2024-25**

Gurukul Shkshan Sansthan, 5, Nindar Moad, Harmada, Jaipur – 302013. PAN: AACAG8325K	V s	The Commissioner of Income Tax(Exemption), Jaipur.
Appellant / Assessee		Respondent / Revenue

Assessee by	None.
Revenue by	Shri Arvind Kumar – CIT(DR)
Date of hearing	02/07/2024
Date of pronouncement	03/07/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This appeal filed by the assessee is against the order of ld.Commissioner of Income Tax(Exemption), Jaipur rejecting assessee's application for Registration u/sec.12AB of the Act. The assessee has raised the following grounds of appeal :

*"1. That the Ld CIT(Exemption)/A.O. has rejected application for registration under section 12AB(1)(b)(ii)(B) of Income Tax Act, 1961*



*on the grounds of incomplete form 10AB, Rajasthan Public Trust, 1959 and genuineness of activities.*

*2. That the Ld CIT(Exemption)/A.O. has cancelled the provisional registration under clause (vi) of clause (ac) of sub-section (1) of section 12A.*

*3. That the Ld CIT(Exemption)/A.O. has grossly erred in law as well as in facts in not appreciating the documents/information furnished during the course of proceedings.*

*4. That the appellant reserves his right to add, amend or alter any of the ground on or before the hearing.”*

2. Shri S.S.Choudhary-CA filed letter dated 07.06.2024 requesting for adjournment. The relevant letter is reproduced here as under :

*“Subject: Adjournment of hearing for Appeal no-482/JPR/2024 – Gurukul Shikshan Shansthan (Date of Hearing-10/06/2024)*

*Sir,*

*In reference to the above cited subject, I beg to say that one of the grounds of appeal was non-availability of RPT certificate for which the assessee has applied but the same is not issued yet. It is expected to take approximately three more weeks and hence due to non-availability of RPT Certificate (Certificate issued under Rajasthan Public Trust Act 1958) which was the reason for cancellation of provisional Registration under section 12AB(I)(b)(ii) of I T Act 1961, I request you to kindly adjourn the hearing.*

*So, I request you to kindly adjourn the hearing for next month.*

*I do apologize for the inconvenience caused by this.”*

3. At the outset of hearing, no one appeared on behalf of the assessee. We rejected the adjournment request and proceeded.

**Submission of Id.DR for Revenue :**

4. The Id.Departmental Representative for the Revenue relied on the order of Id.CIT(E).

**Findings & Analysis :**

5. We have heard Id.DR for the Revenue and perused the records. In this case, the Id.CIT(E) has rejected the assessee's application dated 26.09.2023 for Registration u/sec.12AB of the Income Tax Act on the ground that assessee is not registered under Rajasthan Public Trust Act, 1959, genuineness of the activities of the assessee could not be verified due to non-compliance; and Assessee has filed incomplete Form No.10AB. The relevant paragraphs of the Id.CIT(E)'s order are reproduced here as under :

*“It is important to note here that provisions and definition of public trust in Rajasthan Public trust and Bombay Public Trust Act, 1950 are analogous. Thus this decision, further clarify that if an NGO is for public religious or public charitable or both purposes, registration under public trust in mandatory. Further Hon'ble Rajasthan High Court in case of Public Trust Shri Geeta Satsang Bhawanvs. Om*



*Prakash Mr. D.C. Sharma, Civil Appeal no. 300 of 2006, has further held in para 5 that earlier requirement of minimum income and property has been done away and since 1982 onward every public trust irrespective of its income or properties need to be registered under Rajasthan Public trust Act, 1959. Further, as discussed in earlier paras, the Hon'ble Supreme Court in its para no. 64-70 of order dated 19.10.2022 in the case of M/s New Noble Education Society in civil appeal no. 3795 of 2014 has held that registration under respective public trust acts or charities act is mandatory. It is important to mention here that New Noble education society was also registered under Andhra Pradesh Societies Registration Act, 2001, and Assessee has pleaded before Hon'ble Apex Court on same ground that once registered under societies Act, no need to register under public trust act. Respective plea of assessee in that case is available on para 14 of Hon'ble Apex Court namely. "as long as trust was registered under some law (such as Andhra Pradesh Societies Registration act) or even a not ot for profit duly incorporated no other requirement under any other state law. And after considering this argument, Hon'ble Apex Court has, by discussing all the provisions of public trust Act, has held that such registration is mandatory. So, the recent Apex Court decision has made it clear that any NGO whether registered as Society, or formed as trust or even section 8 company, must register under public trust act, if it claims that it is for the benefit of public, and claims itself as public charitable or public religious organization.*

*3.5. Assessee vide letter dated 28.12.2023 was given a show cause to submit documents/explanation, by 12.01.2024, the relevant portion of which is reproduced as under.*

*"Whether the institution is registered under Rajasthan Public Trust Act, 1959. If not, please give explanation that why same should not be considered violation of section 12AB(1)(b)(i) (B) of the Income Tax Act read with sec 17 of the Rajasthan Public Trust Act, 1959 and decision of Hon'ble Apex Court in the case of New Noble Education Society Civil Appeal No. 3795 of 2014 dated 19.10.2022 and why the application should not be rejected."*

*However, in response to the above query no reply furnished by the applicant nor furnished copy of certificate regarding its registration under RPT Act, 1959. Thereafter, two more opportunities were also*



*given vide letter dated 23.01.2024 & 11.02.2024, but on every event applicant failed to furnished any material on record from which it is proved that the applicant is not registered under the RPT Act. From the above, it is seen that the applicant is not registered under the Rajasthan Public Trust Act, 1959.*

*In light of above discussion and in the absence of registration under Rajasthan Public Trust Act, 1959, assessee is not eligible for registration u/s 12AB.*

*However, the applicant has failed to comply with the letters, despite being given three opportunities details of which given in para-I, during these proceedings and three opportunities during earlier application, thus effectively 6 opportunities. All the above details were sought in order to determine the actual working of the institution. The applicant didn't furnish the sought details. The applicant has not furnished the details along with till vouchers of expenses debited in income and expenditure accounts for the last three financial years. Further, the assessee was also not submitting the details of bank account and financial statement for the last three years, Details of note on activity carried out by the applicant. The above details were sought from the applicant to determine the actual purpose/nature of expenditures made and to determine whether the impugned charitable activity had actually been done by the trust or not. Such type of verification is necessary to keep a check and balance on the actual working of the trust. Since, the applicant didn't furnish sought details, in the absence of such documents/details, the justification of impugned activity could not be derived and it is not known whether the applicant is genuinely carrying out charitable activity as per its objects. As 6 opportunities already provided, which are more than sufficient if assessee has anything in its support. Thus, it is clear that assessee is not doing activities genuinely. Hence, the applicant has failed to justify the genuineness of activities and thus falls out of the scope of registration u/s 12AB of the Act.*

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

- *Incomplete Form 10AB.*

- *Rajasthan Public Trust Act, 1959.*
- *Genuineness of Activities and non-compliance.”*

6. The ld.AR for the assessee in the adjournment application have accepted that assessee do not have Registration under section Rajasthan Public Trust Act and assessee may be receiving it. It means, on the date of application i.e. 26.09.2023, assessee was not having registration under Rajasthan Public Trust Act. As per section 17 of Rajasthan Public Trust Act, it is mandatory for a Public Trust to register under Rajasthan Public Trust Act, within three months from the date of which the Public Trust is created. It is also an admitted fact that assessee had not registered itself. Section 12AB(1) mandates that all the applicable laws shall be followed and if any applicable law is not followed by the Trust, then it is not eligible for registration. In this case, admittedly Rajasthan Public Trust Act is applicable to the assessee and assessee has not followed provisions of Rajasthan Public Trust Act, therefore, as per section 12AB(1), assessee is not eligible for registration u/sec.12AB r.w.s. 12A of the Act.



6.1 The Hon'ble Supreme Court in the case of New Noble Education Society in Civil Appeal No.3795 of 2014 dated 19.10.2022 have held that Charitable Institutions and Societies which may be regulated by other state laws have to comply with them. The relevant paragraph 68, 69 and 70 of the Hon'ble Supreme Court's decision is reproduced here as under :

*“67. In the event of failure to comply with Section 43(1), or failure to intimate changes in the trust, or for supplying false information, the trustee or other person in charge, can be penalized by Section 43 (11). Section 44 empowers the Commissioner to direct charitable organizations and trusts to comply and register under the Act.*

*68. The assessee had argued that since they were registered under the Andhra Pradesh Societies Registration Act, 2001 or were trusts duly registered, they could not be compelled to comply with state laws as a condition for consideration of their application as charitable institutions, under Section 10 (23C).*

*69. This court is of the opinion that the findings in the impugned judgment on this aspect are sound. The requirement of registration of every charitable institution is not optional. Aside from the fact that the consequences of non-registration are penal, which indicates the mandatory nature of the provisions of the A.P. Charities Act, such local laws provide the regulatory framework by which annual accounts, manner of choosing the governing body (in terms of the founding instrument: trust, society, etc.), acquisition and disposal of properties, etc. are constantly monitored. Entry 32 of List II of the Seventh Schedule to the Constitution reads as follows:*

*“32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary,*



*scientific, religious and other societies and associations; cooperative societies.”*

*By Entry 28, List III of the Seventh Schedule, the states have undoubted power to enact on the subject of charities:*

*“28. Charities and charitable institutions, charitable and religious endowments and religious institutions.”*

*The A.P. Charities Act provides a statutory regulatory framework in regard to activities of charitable institutions in the state. Sections 72-74 deal with surplus funds and their treatment; Sections 75-77 deal with properties of trusts and charitable institutions and restrictions on transfers. These and other provisions enable the State, which is concerned in the proper administration of such organizations, to ensure that they are managed efficiently without misfeasance. They also contain provisions to protect the interests of trusts, especially funds and properties.*

*70. In view of the above discussion, it is held that charitable institutions and societies, which may be regulated by other state laws, have to comply with them- just as in the case of laws regulating education (at all levels). Compliance with or registration under those laws, are also a relevant consideration which can legitimately weigh with the Commissioner or other concerned authority, while deciding applications for approval under Section 10 (23C).”*

6.2 The provisions of the Andhra Pradesh Charities Act and provisions of the Rajasthan Public Trust Act are almost identical. Therefore, decision of the Hon’ble Supreme Court in the case of New Noble Education Society(supra) on this issue is squarely applicable to the assessee. Therefore, respectfully following the

Hon'ble Supreme Court's decision(supra), we uphold the order of the Id.CIT(E).

7. It is also observed that assessee had not submitted the details called by the Id.CIT(E), therefore, Id.CIT(E) observed that genuineness of the activities of the assessee could not be verified. After the amendment in the registration procedures for Charitable Trust parliament in its wisdom has introduced provisional registration and permanent registration w.e.f 01.04.2021. The provisional registration is issued almost automatically relying on the assessee's submissions. However, at the time of issuing permanent registration as per Section 12AB(1), it is mandatory for Id.CIT(E) to verify genuineness of the activities of the assessee. In this case, assessee has not submitted the relevant details. Therefore, the Id.CIT(E) could not verify genuineness of the activities of the assessee. Even before this tribunal, assessee has not filed single document to prove genuineness of the activities of the assessee trust. In these facts and circumstances of the case, we

agree with the ld.CIT(E) that assessee is not eligible for registration u/sec.12AB of the Act as assessee could not prove genuineness of the activities.

7.1 In these facts and circumstances of the case, we uphold the order of ld.CIT(E). Accordingly, grounds of appeal raised by the assessee are dismissed.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 3<sup>rd</sup> July, 2024.

**Sd/-**  
**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

जयपुर / Jaipur / दिनांक / Dated: 03/07/2024 / SGR\*

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

1. The Appellant- Gurukul Shikshan Sansthan, Jaipur.
2. प्रत्यर्थी / The Respondent- ld.CIT(Exemption), Jaipur.
3. आयकर आयुक्त / The ld CIT
4. आयकर आयुक्त(अपील) / The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.482/JPR/2024)

आदेशानुसार / By order,

// TRUE COPY //

सहायक पंजीकार / Asst. Registrar