



।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.688/JPR/2023

निर्धारण वर्ष / Assessment Year : N.A.

Lokesh Agarwal Dharmarth Charitable Trust, 206, Ganga Sagar Scheme, Sirsi Road Bypass, Vaishali Nagar, Jaipur – 302021. PAN: AABTL0275D	V s	The Commissioner of Income Tax(Exemption), Jaipur.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Vikash Rajvanshi – AR
Revenue by	Shri Arvind Kumar – CIT(DR)
Date of hearing	03/07/2024
Date of pronouncement	04/07/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the Assessee is against the orders of
ld.Commissioner of Income Tax(Exemption), Jaipur dated
16.12.2022 rejecting assessee's application for registration



u/sec.12AB of the Income Tax Act, 1961 filed on online on 15.06.2021. The assessee raised the following grounds of appeal :

“1. The CIT(E) wrongly rejected the 10AB application for 12A permanent registration by Order dated 16.12.2022 but no appeal could be filed as main trustee who is 67 years old and was severely ill, whose email id is given could not be seen by him. Hence there was delay in filing appeal, now appeal has been filed by amending email id and contact number of profile of assessee. Hence, delay of 343 days may please be condoned.

2. CIT(A) had rejected the application for registration vide DIN & notice no.ITBA/EXM/F/EXM45/2022-23/1048052232(1) dated 16.12.2022 of assessee trust u/s 12A stating that form is rejected on basis of incomplete form 10AB, Non-registration with RPT ACT, 1959 and trust is a charitable trust working for public welfare activities such as promotion and advancement of general public welfare, providing relief to the poor as well as medical reliefs to those in need. The assessee Trust has been doing charitable activities for the past many years. the trust is duly registered at Stamps & Office of Sub Registrar SR-5 vide Registration No.2012397049434 under the head Trust where no deposition of property clearly mentioned on the back side of the second page of the trust deed and registration fees was also deposited vide receipt No.2012397051914 on dated 27.12.2012. Hence CIT(Exemption) has wrongly rejected our claim of registration under 12AB. Out tr

3. 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.”

Findings & Analysis :

2. We have heard both the parties and perused the records. It is observed that the ld.CIT(E) has rejected the application filed by



assessee for registration u/sec.12AB of the Act on following grounds :

- Non-registration of the assessee with Rajasthan Public Trust Act.
- Genuineness of activities could not be ascertained due to non-compliance.
- Incomplete Form 10AB filed by the assessee.

3. During the hearing, the ld.AR of the assessee submitted that assessee is a Trust which was formed on 26.12.2012. Assessee filed copy of the Trust Deed which was in Hindi. The said Trust Deed was amended on 05.03.2013. Ld.AR has also enclosed certain photographs showing blood donation camps and posters of social marriages. However, these documents were never filed before the ld.CIT(E) by assessee.

4. It is also an admitted fact that assessee is not registered under Rajasthan Public Trust Act. The ld.AR submitted that assessee's application for registration under Rajasthan Public Trust Act is pending with competent authority.



5. Thus, it is an admitted fact that on 15.06.2022, i.e. date when assessee filed application for registration u/sec.12AB of the Act assessee was not registered under Rajasthan Public Trust Act. It is also a fact that assessee had applied for registration under Rajasthan Public Trust Act after 15.06.2022.

6. 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 ld.CIT(E), therefore, ld.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 ld.CIT(E) to verify genuineness of the activities of the assessee. In this case, assessee has not submitted the relevant details. Therefore, the ld.CIT(E) could not verify genuineness of the activities of the assessee.

8. Since we have uphold the order of ld.CIT(E) on the ground that assessee do not have registration under Rajasthan Public Trust Act, we do not intend to comment on the genuineness of the



ITA No.688/JPR/2023

Lokesh Agarwal Dharmarth Charitable Trust [A]

activities. Accordingly, grounds of appeal raised by the assessee are dismissed.

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

There was delay of 275 days in filing of appeal by the assessee before this Tribunal. We have gone through the affidavit filed by the assessee and we condone the delay.

Order pronounced in the open Court on 4th July, 2024.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

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

जयपुर / Jaipur / दिनांक / Dated:- 04/07/2024 / SGR*

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

1. The Appellant- Lokesh Agarwal Dharmarth Charitable Trust, Jaipur.
2. प्रत्यर्थी / The Respondent- CIT(Exemption), 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.688/JPR/2023)

आदेशानुसार / By order,

// TRUE COPY //

सहायक पंजीकार / Asst. Registrar