

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "G" BENCH : MUMBAI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER

ITA.No.2135/Mum./2024  
[Sec.12AB/(I)(b)(ii) of I.T. Act, 1961]

Satyam Sumiran Yoga Research Foundation, Flat No.B1, Keshav Vasant Apt Abhasaheb Panhale Marg, Panvel- 410 206. Raigad Maharashtra. PAN AABCU9712F	vs.	The CIT (Exemptions), 6 <sup>th</sup> Floor, MTNL Telephone Exchange Bldg., Cumbala Hill, Peddar Road, Mumbai – 400 026. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Dinesh Kukreja
For Revenue :	Shri Dr Kishor Dhule, CIT-DR

Date of Hearing :	22.07.2024
Date of Pronouncement :	24.07.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

This assessee's appeal arises against the order of the learned CIT(E)m Mumbai, Mumbai's DIN & Notice no. ITBA/EXM/F/EXM45/2023-24/1063198032(1) dated 22.03.2024, in proceedings u/s.12AA of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. Learned counsel invited our attention to the CIT(E) impugned order refusing sec.12A registration to the assessee as under :

*“1. M/s Satyam Sumiran Yoga Research Foundation (hereinafter the assessee or the applicant) filed an application in Form 10AB seeking approval under section 12A of the Act*

*2. On verification of the application in Form 10AB filed by the assessee, it was found that the application was not complete, and all the documents required to be accompanying the application were not furnished. Hence, a notice was issued to the applicant vide DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/ 1059153163(1) dated 28.12.2023 requesting the assessee to furnish the complete set of documents mentioned in the notice. The assessee has filed submission vide letter dated 12.01.2024.*

*3. On perusal of the submission of the assessee it is seen that the assessee is receiving fee from participants for meditation courses. The activity of foundation is commercial/business activity instead of charitable activity. Further, as per the Income Tax Act, activity of the foundation the nature of activity are in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fees or any other consideration.*

*4. In view of the above the activity of the foundation is business activity instead of charitable activity, hence this application for registration u/s 12A is hereby rejected.*

*5. For statistical purposes, this application for approval under section 12A is non-maintainable and stands rejected.”*

3. It is in this factual backdrop that the assessee vehemently argued that the CIT(E) herein has erred in law and on facts in rejecting its sec.12A registration thereby

treating it to have been carrying out commercial/business activity(ies) under the last limb of sec.2(15) i.e., general public utility read with 1<sup>st</sup> proviso thereof. Learned counsel's case is that once the assessee is carrying out "yoga" activity(ies), it itself forms a specific limb u/sec.2(15) going by the statutory amendment inserted by the Finance Act 2015 w.e.f. 01.04.2016 than to be covered under the last limb of general public utility and therefore, the CIT(E)'s foregoing findings are no more sustainable in the eye of law.

4. Learned CIT-DR has drawn strong support from the CIT(E)'s above extracted findings refusing sec.12A registration to the assessee.

5. We have given our thoughtful consideration to the foregoing vehement rival submissions and see no reason at this stage to accept either of the said stand(s) in entirety. This is for the precise reason that the learned CIT(E)'s impugned findings have not considered the assessee's alleged details as well as its object clause(s) whilst refusing the sec.12A registration herein. Faced with this situation,

we deem it appropriate in the larger interest of justice to restore the assessee's sole substantive grievance back to the CIT(E) for his afresh, appropriate adjudication as per law, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

6. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 24.07.2024

Sd/-  
[OMKARESHWAR CHIDARA]  
ACCOUNTANT MEMBER  
Mumbai, Dated 24<sup>th</sup> July, 2024  
VBP/-  
Copy to

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "G" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Mumbai Benches, Mumbai.