

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "सी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" C " BENCH, AHMEDABAD

श्री सिद्धार्थ नौटियाल, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.862/Ahd/2024

निर्धारण वर्ष /Assessment Year : -

Shri Vidhyanagar Jain Society Plot No.75-C Chitranjan Chowk Vidhyanagar, Bhavnagar Gujarat -364 001	बनाम/ v/s.	The CIT (Exemption) Ahmedabad
स्थायी लेखा सं./PAN: AAVTS 5757 K		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Shri Malhar Shah, AR
Revenue by :		Shri Kamlesh Makwana, CIT-DR

सुनवाई की तारीख/Date of Hearing : 24/07/2024
घोषणा की तारीख /Date of Pronouncement: 25/07/2024

आदेश/ORDER

PER SHRI MAKARAND V. MAHADEOKAR, AM:

The Assessee is in appeal before us against the order passed under section 12AB/(1)(b)(ii) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") dated 26-02-2024 passed by the Commissioner of Income-tax (Exemption) [hereinafter referred to as "CIT(E)"] on the following grounds:

"Ground No.1: Unavoidable Circumstances

The assessee, in good faith, applied for registration under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A with commissioner of Income Tax (Exemptions) ['CIT (Exemptions)'], Ahmedabad in Form 10AB. However, due to unforeseen and unavoidable circumstances beyond the control of the assessee, the required documents could not be submitted within the stipulated timeframe despite receiving two hearing notices from the Ld. CIT (Exemptions) dated 20/11/2023 and 15/12/2023 respectively.

Ground No.2: Compliance Efforts

It is pertinent to note that the assessee diligently responded to the notices received and expressed the intent to comply with the document submission requirements in the past whenever required. However, due to the nature of the unavoidable circumstances, timely submission became unfeasible in the present case.

Ground No 3: No Prejudice to Revenue

The delay in document submission did not cause any prejudice to the revenue or impede the tax administration process. The assessee is committed to fulfilling all necessary obligations and ensuring compliance with applicable tax laws. Further, assessee is religious trust carrying out religious activities in accordance with objects specified in the trust indenture. Further, an assessee is also undertaking genuine activities and transactions. Failure to respond to the notices issued by Ld. CIT (Exemptions) should not be resulted in the assumption that activities of the assessee is not genuine and not in accordance with the object clause of the trust indenture.

Ground No 4: Request for Leniency

The assessee humbly requests the Income Tax Appellate Tribunal to exercise leniency and consider the extenuating circumstances that led to the non-submission of documents. The delay was beyond the control of the assessee, and it is imperative to provide an opportunity for rectification.

Ground No 5: Interest of Justice

Remanding the matter back to the CIT (Exemptions) would serve the interest of justice by affording the assessee an opportunity to rectify the deficiencies in the application process and present the necessary documents for registration under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A.

Ground No 6: Legal Precedent

It is pertinent to note that in Kalyan Riverside Charitable Foundation vs CIT (Exemption) Pune (I.T.A No.1055/Mum/2023), Honorable Mumbai ITAT ordered to remand back the similar matter to CIT (Exemption). Citing these precedents, the

assessee urges the Income Tax Appellate Tribunal to consider the present appeal favorably.

Ground No 7: Procedural Compliance

The assessee asserts that all other procedural requirements were duly fulfilled, except for the submission of documents within the specified timeframe. The appeal is made in accordance with the provisions of the Income Tax Act and relevant appellate procedures."

2. In view of the foregoing grounds, the Ld.Authorised Representative (AR) of the assessee requested that the matter may be remanded back to the file of Ld.Commissioner of Income Tax (Exemption) for reconsideration in light of the grounds presented hereinabove. He also contended that the matter may be heard on merits before the Ld.CIT(E).

3. The Ld.Departmental Representative (DR) contended that the assessee was given opportunity by the Ld.CIT(E) to submit necessary documents by issuing notices twice on 20-11-2023 and 15-12-2023 and assessee neither filed any submission nor sought any adjournment.

4. The Ld.AR was asked to explain the unavoidable circumstances because of which the required documents could not be submitted before the Ld.CIT(E). The Ld.AR in writing submitted that Mr. Bharatkumar Jaswantraai Shah, Trustee was dealing with the health issues and another Trustee Mr.Nileshbhai Kiritbhai Shah was unavailable due to travel commitments spanning approximately one and half months.

5. We have noted that the assessee is granted provisional registration in Form 10AC on 05-04-2023. The Ld.CIT(E) could not verify the genuineness of the activities of the assessee. We have given thoughtful consideration to

the peculiar facts and circumstances of the case. No doubt that the Ld.CIT(E), before deciding the application filed by the Appellant, gave appropriate opportunity to the appellant to substantiate its case, however he could not decide on the merit in the absence of supported material and/or non-production and non-explaining of documents and activities carried out by the assessee. The Ld.DR did not object to referring the matter back to the file of Ld.CIT(E) for fresh adjudication on merit.

5.1. Hence, for the just decision of case and for the ends of substantial justice, we set aside the order of the Ld.CIT(E) and remand the matter back to the file of the Ld.CIT(E) for deciding afresh, after affording reasonable opportunity of being heard to the Assessee. The Assessee is also directed to co-operate with the proceedings and to file the relevant documents before the Ld.CIT(E). In case of default, the assessee shall not be entitled for any leniency.

6. In the result, the appeal of the Assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 25 July, 2024 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated 25/07/2024

टी.सी.नायर, व.नि.स.।T.C. NAIR, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(E), Ahmedabad
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad