

IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI

BEFORE SHRI B R BASKARAN, ACCOUNTANT MEMBER AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.1390/Mum./2024
(Assessment Year : 2021-25)

Madrasa Baghe Rasool Trust

Noori Masjid Chimatpada, Marol Naka, A.
K, Road, Andheri (East)
Mumbai-400059
PAN No. : AADTM6544L

..... Appellant

v/s

CIT(Exemption), Mumbai

Room No. 601, 6th Floor,
Cumballa Hill MTNL TE
Building, Pedder Road,
Dr. Gopalrao Deshmukh
Marg, Mumbai-400026.

..... Respondent

Assessee by : Shri Tanzil Padvekar
Revenue by : Shri Ankush Kapoor, CIT, DR

Date of Hearing – 13/06/2024

Date of Order – 25/07/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 11/03/2024 passed in Form No. 10AD by the learned Commissioner of Income Tax (Exemptions), Mumbai, [*learned CIT(E)*], rejecting the application for registration filed by the assessee under section 12AB of the Income Tax Act, 1961 (*the Act*), for the assessment year 2024-25.

2. In this appeal, the assessee has raised the following grounds:-

"1. On the facts and in law, the learned Commissioner of Income Tax Exemption, Mumbai [Herein referred as 'CIT (E)'] erred in rejecting application for registration under Section 12AB of the in erroneous manner.

2. On the facts and in circumstances in law, the learned CIT (E) erred in rejecting the application for grant of registration under Section 12AB, without considering the merit of application as stipulated under Section 12AB(1)(b)(i) of the Act.

3. On the facts and in law, the learned CIT (E) erred by rejecting the application for grant of registration on technical ground i.e., mismatch in Form 10AB whereas for Section 12AB(1)(b)(i) requires CIT (E) to satisfy himself about i) Genuineness of activity of trust and ii) Compliance of other laws, the learned CIT(A) ought to have restricted himself to requirement of law.

4. On the facts and in law, the learned CIT (E) ought to have appreciated that the Appellant Trust is fulfilling all the criteria for grant registration as specified in Section 12AB(1)(b) of the Act. The learned CIT (E) has grossly erred in denying registration to the Appellant Trust when all the conditions required for grant of registration under Section 12AB are duly fulfilled.

5. On the facts and in law, the learned CIT (E) failed to demonstrate, in the impugned Order, any valid basis for denial of exemption under Section 12AB of the Act. On this ground alone, the impugned Order is ought to be quashed and set aside.

6. On the facts and in law, the learned CIT (E) erred in passing the impugned order in gross violation of Procedure laid down in Section 12AB(1)(b)(ii) of the Act. Therefore, the impugned order is bad in law.

7. On the facts and in law, the learned CIT (E), be directed by this Hon'ble Court to grant registration under Section 12AB of the Act as per provision of law.

8. On the facts and in law, the learned CIT (E) ought to have looked into the substance, rather than form mentioned in the application for grant of registration under Section 12AB of the Act."

3. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case are that the assessee is a Trust registered under Bombay Public Trust Act, bearing Registration No. E 25262 (Mumbai). The assessee was granted Provisional Registration under section 12A

of the Act vide order dated 10/03/2022 passed in Form No. 10AC. Subsequently, the assessee filed the application in Form No. 10AB seeking registration under section 12AB of the Act. Vide impugned order dated 11/03/2024 passed in Form No. 10AD, the learned CIT(E) rejected the application for registration under section 12AB of the Act on the basis that in the Form No. 10A, i.e. application for Provisional Registration, in the "*nature of activities*" column the trust has mentioned activities as "*religious*", however in Form No. 10AB for seeking registration under section 12AB of the Act, in the "*nature of activities*" column the trust has mentioned activities as "*religious cum charitable*". Thus, it was held that there is mismatch in Form No. 10A and Form No. 10AB, which contains false or incorrect information as per the Explanation to section 12A(1)(ac) of the Act.

4. During the hearing, the learned Authorised Representative ("*learned AR*") submitted that there was an error in Form No. 10A, i.e. application for Provisional Registration, and the "*nature of activities*" column was wrongly filled as "*religious*". The learned AR submitted that in Form No. 10AB for seeking registration under section 12AB of the Act, the "*nature of activities*" column has rightly mention the activities as "*religious cum charitable*", however the same was not considered by the learned CIT(E). The learned AR further submitted that the learned CIT(E) issued notices on 28/12/2013, 19/01/2024, and 25/01/2024 seeking various information pertaining to registration under section 12AB of the Act, however no explanation as regards the aforesaid mismatch was sought from

the assessee. The learned AR submitted that the assessee has all the information to prove that its activities are religious cum charitable in nature.

5. In view of the facts and circumstances as noted in the foregoing paragraph, we are of the considered view that the learned CIT(E) has erred in rejecting the assessee's application for registration under section 12AB of the Act on a mere technical basis, and for such an objection the assessee should have at least been put to notice. Accordingly, we deem it appropriate to restore the application filed by the assessee for seeking registration under section 12AB of the Act to the file of the learned CIT(E) for *de novo* adjudication as per law, after providing reasonable and adequate opportunity of being heard to the assessee. We direct the assessee to furnish all the information as may be sought by the learned CIT(E) in this regard. With the above directions, the impugned order passed in Form No. 10AD is set aside, and the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25/07/2024

SD/-
B R BASKARAN
ACCOUNTANT MEMBER

SD/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 25/07/2024

Copy of the order forwarded to:

- (1) The Assessee;*
- (2) The Revenue;*
- (3) The CIT, Mumbai City concerned;*
- (4) The DR, ITAT, Mumbai;*
- (5) Guard file.*

True Copy

By Order

*Vijay Pal Singh
Sr. Private Secretary*

Assistant Registrar
ITAT, Mumbai