



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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 1326/MUM/2024

A.Y.2024-25

Shree 1008 Suparshwanath
Digambar Jain Chaitalaya
Trust, Shop No.4 & 5 Sumit
Apartment, 90Ft Road,
Bhayander West 401101

Vs.

CIT(Exemption)
Pune

(Appellant)

(Respondent)

PAN

AANTS4624D

Assessee by

None

Revenue by

Dr Kishor Dhule CIT(DR)

Date of hearing

19th June, 2024

Date of pronouncement

27th August 2024

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by the assessee against the order passed by the Commissioner of Income Tax (Exemption) [learned CIT(E)], Pune dated 01.12.2023 wherein the application filed by the assessee in Form No.10AB of the Income Tax Act, 1961 (the Act) dated 08.06.2023 was rejected and provisional registration granted on 19.01.2023 u/s. 12AB was also cancelled.



02. The Assessee is aggrieved and has raised following numeral two grounds of appeal: –

“1.On the facts of the case and in Law, the learned CIT [Exemption] Pune has erred in rejecting the application u/s 12AB for approval of the Appellant Trust by holding that the Memorandum and Articles of Association of the Appellant contains mixed objects, charitable and non-charitable.

2. On the facts of the case and in Law, the learned CIT [Exemption] Pune has erred in rejecting the application u/s 12AB for approval of the Appellant Trust by wrongly holding that the main objects are not charitable in nature although they are directly for the furtherance of interest of the General Public at large and not merely Religious in nature.”

03. The brief facts of the case show that the assessee was granted provisional Registration u/s. 12AB of the Act on 19.01.2023. Thereafter, an application was made in Form No.10AB on 08.06.2023 for regular registration. Notice dated 17.08.2023 was issued to the assessee for furnishing the necessary details, however, assessee did not comply originally but later on 02.11.2023 submitted certain details. Based on this, a show cause notice was issued on 08.11.2023 wherein it was asked that details furnished by the assessee with respect to the activities are general and no specific details were furnished. The copies of the donation receipts were also not provided. However, the main concern was that the activities of the assessee were found to be of religious nature, being for the benefit of particular religious community i.e., Digambar Jain. It was further noted that the assessee has taken loan from trustee



however the purpose of such loan, its utilization and relevant permission of the charity Commissioner was not furnished. The assessee furnished part reply on 15.11.2023 and 20.11.2023 however the learned CIT(E) found that nature of the activities carried out by the trust were related to establishment and maintenance of Digambar Jain temple, therefore, the learned CIT(E) was not sure about the charitable nature and genuineness of the activity of the assessee and compliance to any other law by the trust in view of incomplete details , rejected application and cancelled the provisional registration.

04. The assessee is aggrieved and is in appeal before us raising above grounds of appeal.
05. Despite notice none appeared on behalf of the assessee and, therefore, the appeal is decided on the merits of the case as per information available on record.
06. The learned Departmental Representative (DR) vehemently supported the order of the learned CIT(E) stating that the contention of the assessee was duly considered and found that the total expenditure incurred by the assessee were with respect to the charitable object of solely attributed to religious purposes. He referred to Paragraph No.7.1. He further referred to Paragraph No.7.3 of the order and stated that though assessee has stated that it has distributed free food etc. and all the activities are for the benefit of public at large but no evidence has been submitted. Even the purpose of the loan from the trustee was not submitted. In view of the information not submitted by the assessee, the learned CIT(E) was not in a position to decide about the genuineness of the activities of the trust. Therefore, the application of the assessee was rejected.



07. We have carefully considered the contention raised by the learned Departmental Representative and on perusal of the order, issues raised by the learned CIT(E). In the present case, the assessee trust was formed from the purpose of charitable object, but the actual activities carried out by the assessee were related to only hall rent, *poojari* salary and *poojasamagri*. Other activities of the assessee mentioned in Paragraph No.7.3 were not substantiated by furnishing evidence. Therefore, it is not known whether the assessee has carried out any such activities or not. Further the loan taken by the assessee from the trustee and requisite permission of the Charity Commissioner was also not produced. The rejection of the application was only for the reason that the assessee could not furnish information about the actual activities carried out by the assessee and whether the same are for the public at large or not. We fully agree with the Id CIT (E) that the onus lies on the assessee trust to prove that it is eligible for such registration and continuation of provisional registration.
08. In view of above facts, in the interest of justice, we remit this issue back to the file of the learned CIT(E) with the direction to the assessee to comply with the notices of the learned CIT(E) and to submit the concrete information along with the evidences that assessee has carried out the activities mentioned in Paragraph 7.3 of the order and further the compliance of loan obtained from the trustee, within 90 days from the date of the receipt of this order or within 30 days from the date of any notice received from Id CIT E, whichever is earlier. If such details are submitted. LD CIT (E) may consider the same, and after giving an opportunity of hearing, may be decide the issue afresh.



09. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 27/08/2024.

Sd/-

(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 27.08.2024

Aks/-

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai