

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 476/JPR/2024

Abhimanyu Education Society A-13, Bhan Nagar, Queens Road, Near Kanha Hotel, Jaipur.	बनाम Vs.	The CIT-Exemption, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AADAA5168R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.S. Choudhary (C.A.)
राजस्व की ओर से / Revenue by : Shri Ajey Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 21/08/2024
उदघोषणा की तारीख / Date of Pronouncement : 29/08/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal is filed by the assessee aggrieved from the order of the Learned Commissioner of Income Tax (Exemption), Jaipur [herein after referred as Id. "CIT(E)"] dated 13.02.2024 as per provision of under Section 12AB of the Income Tax Act [here in after the Act].

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

"1. That the Ld. CIT(Exemption/AO has rejected application for registration under section 12AB(1)(ii)(B) of Income Tax Act, 1961 on the

grounds of incomplete form 10AB, Rajasthan Public Trust, 1959 and genuineness of activities.

2. That the Ld. CIT(Exemption)/AO has cancelled the provisional registration under clause (vi) of clause (AC) of sub-section (1) of Section 12A.

3. That the Ld. CIT(Exemption)/AO has grossly erred in law as well as in facts in not appreciating the documents/information furnished during the course of proceedings.

4. That the appellant reserves his right to add, amend or alter any of the ground on or before the hearing.”

3. The facts as culled out from the records are that the assessee filed an application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 on 29.09.2023. A letter dated 11.12.2023 was issued at the e-mail/address provided in the application requiring the assessee to submit certain documents/explanation by 20.12.2023, but no compliance has been made by the assessee. Thereafter, a reminder letter was issued on 13.01.2024 wherein date of hearing was fixed as 22.01.2024, but again no compliance has been made the assessee. Since it was a limitation matter, the case was decided on the basis of material filed by the assessee along with its application in Form No. 10AB by the Id. CIT(E).

3.1 Upon verification of the application in Form 10AB filed by the assessee, Id. CIT(E) noted that the application was not complete. The documents required to be accompanied with Form 10AB were

not furnished. The Id. CIT(E) also noted that the assessee has failed to prove that the assessee is registered under RPT Act, 1959 or not. As the assessee failed to comply with the letters, despite being given three opportunities the assessee did not furnish the details as sought.

3.2 Since, the assessee did not furnish details which were sought Id. CIT(E) noted that in the absence of such documents / details, the justification of impugned activity could not be verified. He further noted that it is not known whether the assessee is genuinely carrying out charitable activity as per its objects or not. Hence, the assessee has failed to justify the genuineness of activities and thus falls out of the scope of registration u/s 12AB of the Act. Thus, Id. CIT(E) rejected the claim of the assessee's for registration section 12AB on following grounds:-

- Incomplete Form 10AB.
- Rajasthan Public Trust Act, 1959.
- Genuineness of Activities.

4. Feeling dissatisfied with the finding of the Id. CIT(E), the assessee preferred appeal before this Bench with the prayer that the Id. CIT(E) is not justified in not granting the registration and the order passed is against the principles of nature justice.

Apropos to the grounds so raised by the Id. AR of the assessee, he submitted that amongst three reasons advanced to reject the application of the assessee, effectively only one reason is that non submission of the registration under Rajasthan Public Trust Act, 1959 (for short RPT Act). The assessee on being aware about the requirement of registration under RPT Act immediately applied and the matter is under active consideration with the State Government agency.

As regards the genuineness of the activity. The Id. AR of the assessee submitted that the assessee runs an education institution with more than 700 students which are being given schooling education. Therefore, the reasons advance for non granting of registration as to non genuineness of the activity is factually incorrect.

So far as the third reasons for refusal of registration is incomplete Form and incomplete details, wherein only last year

audited balance sheet which was not finalized so not submitted. But the assessee, if given a chance will ensure to submit. Thus, the reasons advanced by the Id. CIT(E) being curable in nature and the time allowed for not much the assessee prays one more chance to cure the defects pointed out by the Id. CIT(E). To support the contention the Id. AR of the assessee filed the detailed written submission as reproduced here in below:

"Brief facts of this case are that the assessee is registered under Rajasthan society act carrying on school with name and style "Scotle High School".

We applied for provisional registration under sub-clause (vi) of clause (ac) of sub- section (1) of section 12A vide form 10A dated 24/09/2022 and were granted provisional registration vide form 10 AC dated 01/10/2022.

We applied for final registration/Approval vide form 10 AB dated 29/09/2023.

Notice was served upon us seeking some clarification regarding genuineness of the activities.

In response to the above notice, in person meeting was held wherein approval from state government for running of School including all the financial statements, vidhan patra and registration certificate of society and filed form 10 AB were produced before Ld CIT(Exemption)

The society has been running the school since 2014. The Ld. CIT(Exemption) admitted the documents. Later on, new notice seeking clarifications was served and on hearing asked that registration under Rajasthan Public Trust Act, 1959 is not obtained and hence application might be rejected.

In response to this we requested the Ld. CIT(Exemption) that the society would need approximately 120 days period of time to obtain the registration under Rajasthan Public Trust Act, 1959.

The Ld. CIT(Exemption) on this replied that they have to make the order on or before 31 of March, 2024.

After this discussion, the Ld. CIT(Exemption) passed rejection order on the grounds of

Genuineness of Activities

Rajasthan Public Trust Act, 1959

Incomplete Form 10 AB

As of genuineness of activities, all documentation proof was submitted before Ld.

CIT(Exemption).

Society has been running school which is conducting educational activities since last 10 years but the Ld. CIT(Exemption) neither conducted any physical verification nor appreciated the documents produced before him.

He questioned the genuineness of activities but did not make any effort to verify the same and just straight-forwardly assumed that the educational activities are not genuine.

Form 10 AB was also not questioned by the Ld. CIT(Exemption) in the in-person meeting with him but later on marked as incomplete.

Further, such rejection was made on the basis of erroneous interpretation of Honorable Supreme Court Judgement in the case of New Noble Education Society. Also, the fact that the application has already been made by the assessee for registration under the said act was completely ignored.

We have applied for registration under RPT Act, 1959 vide Form No 6 on 13/03/2024. We were asked to be present in this matter on 30/05/2024 and now awaits further communication. We further request the bench to give directions to CIT(Exemption) on to grant us registration under Section 12AB(1)(b)(ii)(B) of the Income Tax Act 1961, once we submit before them the Certificate of registration under RPT Act, 1959 (additional ground).

We request the Bench to provide us remedy and give the directions to CIT(Exemption) in the above matters.

It is thus hereby prayed for quashing the rejection order so passed and order for grant of registration.

We further request the bench to give directions to CIT(Exemption) on to grant us registration under Section 12AB(1)(b)(ii)(B) of the Income Tax Act 1961, once we submit before them the Certificate of registration under RPT Act, 1959.”

5. Per contra, the Id. DR relied on the orders of the Id. CIT(E), but at the same he did not object to specific prayer of the assessee to set aside the matter before Id. CIT(E).

6. We have heard the rival contentions and perused material available on record. The bench noted that the Id. CIT(E) advanced three reasons for rejection of application of the assessee for registration. Out of the three reasons one of the reasons is that the assessee has not supplied the copy of the registration under Rajasthan Public Trust Act, 1959 (for short RPT Act). The assessee on being aware about the requirement of registration under RPT Act immediately applied and the matter is under active consideration with the State Government agency. As regards the genuineness of the activity, the bench noted the assessee runs a school as approved by state government since 2014. In that school more than 700 students which are being given schooling education. Therefore, the reasons advance for non granting of registration as to non genuineness of the activity is needs reconsideration and the assessee assured that if given a

chance they will be able to submit all the details required to prove the genuineness of the activities. So far as the third reasons for refusal of registration is incomplete form and incomplete details, wherein only last year audited balance sheet which was not attached as the same was not finalized, so not submitted. But the assessee, if given a chance will ensure to submit that also. Thus, the reasons advanced by the Id. CIT(E) being curable in nature. Thus, considering the facts presented by the assessee for which the Id. DR did not object to the fact that defects pointed out are being curable we are of the considered view that the assessee be given one more chance so as to deal with their correct facts in the interest of justice. In the light of the facts and circumstances so discussed and considering the principles of natural justice we do not wish to enter into the matter of the disputes but after hearing the rival contention the Bench is of the view that let the Id. CIT(E) decide the issue based on the submission of the assessee and after providing proper opportunity of being heard to the assessee and making necessary enquiry in accordance with the law. However, the assessee will not seek any

adjournment on frivolous ground and remain cooperative during proceedings before the Id. CIT(E).

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

Order pronounced in the open Court on 29/08/2024.

Sd/-

Sd/-

(संदीप गोसाई)
(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

(राठौड कमलेश जयंतभाई)
(Rathod Kamlesh Jayantbhai)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 29/08/2024

*Santosh

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

1. अपीलार्थी / The Appellant- Abhimanyu Education Society, Jaipur.
2. प्रत्यर्थी / The Respondent- CIT-Exemption, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 476/JPR/2024 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar