

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member**

**ITA No. 615/Ahd/2024**  
**Assessment Year 2012-13**

Chandani Education & Charitable Trust, At & PO Kavadia, Tal- Godhra, Dist. Panchmahal PAN: AABTC0901D (Appellant)	Vs	The Income Tax Officer, Ward-Exemption, Vadodara (Respondent)
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**Assessee by: Shri Sulabh Padshah, A.R.**  
**Revenue by: Shri Sanjay Kumar, Sr. D.R.**

Date of hearing : 07-08-2024  
Date of pronouncement : 09-09-2024

**आदेश/ORDER**

This is an appeal filed against the order dated 01-05-2017 passed by ld. CIT(A) for assessment year 2012-13.

2. The grounds of appeal are as under:-

*"Your appellant being aggrieved by the order passed by the learned Ld. Commissioner of Income-tax (Appeals) - 1. Vadodara (herein after referred to as Ld. CIT (Appeals)) presents this appeal against the same on the following amongst other grounds:*

*1. The Learned CIT (Appeals) has erred in dismissing the appeal stating that the Appellant has not responded to the notices issued during course of Appellant Proceeding. It is submitted that the responses could not be filed during CIT Appeal Proceeding, as the Appellant Trust has not received any of the notices issued as well as Appeal order passed due to change in address. On facts and circumstances of the case, it is prayed before your honour that one more opportunity please be granted to the Appellant Trust and the matter please be decided on merits in the interest of justice.*

*2. The Ld AO has erred in making adhoc disallowance of Rs 9,20,372/- considering 1/5 expenditures of total expenditures incurred for the year. It is submitted that the Appellant Trust has filed complete details and documentary evidences on record and though without pointing out any specific adverse remark, AO has made above addition purely on adhoc basis. On facts and circumstances of case, the addition made by ld AO of Rs 9,20,372/- is completely incorrect and illegal and the same be deleted in the interest of justice.*

*3. The Order passed by the learned CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.*

*4. Your appelland craves leave to add, alter and/or to amend all or any of the grounds before the final hearing of appeal.”*

3. The return of income was filed on 01-01-2013 declaring total income at Rs. nil after claiming exemption of Rs. 44,28,474/-. The said return was processed u/s. 143(1) of the Act accepting the income. The case was selected for scrutiny manually and notice u/s. 143(2) of the Act was issued and served upon the assessee on 23-09-2013. Notice u/s. 142(1) r.w.s. 129 along with questionnaire was issued on 26-12-2014. In response to the notice, the president of the trust attended the proceedings and furnished the details such as

copy of audit report, balance sheet, income and expenditure account and other details. After taking cognizance of the same, the Assessing Officer observed that the assessee is not registered u/s. 12A and therefore the assessee is considered as AOP instead of trust for the income tax purpose and therefore exemption u/s. 11 and 12 is applicable to the assessee. But the Assessing Officer disallowed the 1/5 of the total expenses amounting to Rs. 9,20,372/- out of claimed expenditure of Rs. 46,01,861/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Authorized Representative submitted that there is a delay of 48 days for filing the present appeal as due to the change in address of the trust, the assessee trust could not receive the statutory notices of hearing and therefore the assessee's case was not represented before the CIT(A). The CIT(A) has also dismissed the appeal on the issue of non-condonaton of delay and non-prosecution. The Authorized Representative submitted that the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit and the delay before the Tribunal as well as before the CIT(A) may be condoned.

6. The ld. Departmental Representative relied upon the assessment order and the order of the CIT(A) and further submitted that since the trust is not registered, expenses were rightly disallowed by the ld. CIT(A).

7. Heard both the parties and perused the relevant materials available on record. The delay for 48 days in filing the present appeal before the Tribunal was explained by the assessee to the affidavit dated 28<sup>th</sup> March, 2024 which appears to be genuine and hence the appeal before the Tribunal is condoned. As relates to the order of the CIT(A), the assessment order is passed on 28<sup>th</sup> March, 2015 and the assessee has filed the appeal before the CIT(A) on 11-09-2015. The explanation given by the assessee that due to the change in address which was not duly notified on the mistake of the assessee's appeal needs to be looked lenient in assessee's case and therefore delay before the CIT(A) is condoned. This should not be treated as precedent in any other cases as the factual aspect in the present case is unique. As relates to the issues contested by the assessee trust before the CIT(A) was not decided on merit and therefore it will be appropriate to remand back this matter to the file of CIT(A) for proper adjudication of the issues after taking cognizance of the evidences put up before the CIT(A) by the assessee trust. The CIT(A) will adjudicate the issues as per Income Tax Act. Needless to say,

the assessee be given opportunity of hearing by following principles of natural justice.

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

Order pronounced in the open court on 09-09-2024

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Ahmedabad : Dated 09/09/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद