

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1195/Ahd/2024
(Assessment Year: NA)

Gowd Saraswath Samaj, 31-32, Malay Society, Vasana Baraj Road, Vasana, Ahmedabad-380007	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No.AABTT0779L]		
(Appellant)	..	(Respondent)

Appellant by :	Shri S. N. Divatia & Shri Samir Vora, A.Rs.
Respondent by:	Shri Prothviraj Meena, CIT DR

Date of Hearing	14.10.2024
Date of Pronouncement	14.10.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad vide order dated 27.03.2024.

2. The Assessee has taken the following grounds of appeal:-

“1.1 The order passed by U/s. 12AB on 27.03.2024 by CIT (Exem.) Ahmedabad, (for short CIT(E)” rejecting the application u/s 12A(1)(ac)(iii) of the Act and cancelling the provisional registration as well as directing the appellant to compute tax liability u/s 115TD is wholly illegal, unlawful and against the principles of natural justice.

2.1 The ld. CIT(E) has grievously erred in law and or on facts in rejecting the application u/s 12A(1)(ac)(iii) of the Act and cancelling the provisional registration as well as directing the appellant to compute tax liability u/s 115TD.

3.1 That the in the facts and circumstances of the ld. CIT(E) ought not to have rejected the application u/s 12A(1)(ac)(iii) of the Act and cancelling the provisional registration as well as directing the appellant to compute tax liability u/s 115TD.”

3. At the outset, we observe that the appeal is time barred by 10 days. The delay of 10 days is condoned, on due consideration of facts and owing to smallness of delay causing no perceptible prejudice to other side.

4. The brief facts of the case are that Ld. CIT(E) rejected the application for registration under Section 12A(1)(ac)(iii) of the Act and cancelled the provisional registration earlier granted to the assessee. The Ld. CIT(E), at Para 7 of the order held that the Assessee Trust has been carrying out religious activity by organizing religious functions.

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(E) rejecting grant of registration under Section 12A of the Act.

6. The Ld. Counsel for the assessee submitted that the assessee is not involved in any religious activities, as is evident from the “objects of the Trust” and has only incurred minor expenses on the occasion of festivals like Ganesh Chaturthi and Ram Navami, which cannot be construed / interpreted as assessee being engaged in carrying out religious activities.

7. In response, the Ld. D.R. placed reliance on the observations made by Ld. CIT(E) in the order passed by him.

8. We have heard the rival contentions and perused the material on record.

9. On going through the facts of the instant case, we are of the considered view that merely incurring of expenditure on regular festivals cannot be a valid ground for rejecting the application for registration of Trust of the assessee under Section 12A of the Act, especially in light of the fact that on going through the “objectives” of the Trust, it is evident that the assessee has not been incorporated

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for the purpose of carrying out religious activities. In light of the above, the matter is restored to the file of Ld. CIT(E), with a direction to examine the objectives of the assessee Trust in totality, to give an opportunity to the assessee and after taking into consideration all facts of the assessee on record, take a decision with regards to registration of Trust as per provision of Section 12A(1)(ac)(iii) of the Act.

10. In light of the above and in the interest of the justice, the matter is restored to the file of CIT (Exemptions), for de-novo consideration, after giving due opportunity of being heard to the assessee and with the direction not to disentitle the assessee for grant of registration only on the grounds as mentioned in its order for rejecting the application filed by the assessee trust.

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

This Order is pronounced in the Open Court on 14/10/2024

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 14/10/2024

TANMAY, Sr. PS

TRUE COPY

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(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad