

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A " BENCH, AHMEDABAD

सुश्री सुचित्रा कम्बले, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.505/Ahd/2022
निर्धारण वर्ष /Assessment Year : 2022-23

Shree Dandhavya Chhasath Prajapati Samaj Sejal Briks Nr. Ambica Nagar Stand Gandhinagar Kalol 382 721 (Gujarat)	बनाम/ v/s.	The Commissioner of Income Tax (Exemption) Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AAMTS 5972 R		

अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Biren Shah, AR
Revenue by :		Shri Sudhendu Das, CIT-DR

सुनवाई की तारीख/Date of Hearing : 14/10/2024
घोषणा की तारीख /Date of Pronouncement: 16/10/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

This appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Exemption), Ahmedabad, [hereinafter referred to as the "CIT(Exemption)"] dated 28.09.2022, rejecting the application filed by the assessee in Form No. 10AB for registration under section 12AB of the Income Tax Act, 1961 [hereinafter referred to as "the Act"].

Facts of the Case:

2. The assessee, filed an application for registration under section 12AB of the Act in Form No. 10AB on 31.03.2022, declaring its aims and objectives primarily related to educational, social, and economic welfare activities. The CIT (Exemption), after issuing multiple notices, rejected the registration application, citing that the objects of the Trust were confined to the "Chhasath Prajapati Community", thus attracting the provisions of section 13(1)(b) of the Act, which disallows exemption for trusts benefiting a particular community. Additionally, it was noted that the assessee failed to provide certain details as called for by the CIT (Exemption).

3. The assessee is in appeal before us with following grounds of appeal:
1. *The Commissioner of Income Tax(Exemption) Ahmedabad has erred in Law and on facts, in rejecting the application in form 10AB U/S 12AB of the Income Tax Act, 1961, on non satisfaction of genuineness of the activities of the trust.*
 2. *The CIT (Exemption) has erred in law, in over looking and in summarily rejecting and not considered, the tangible material submitted during the proceeding u/s 12AB of Income Tax Act. 1961.*
 3. *Your appellant crave, leave to add, alter, & or to emend modify substitute all or any ground of appeal before final hearing if necessity so arise.*

4. The learned Authorised Representative (AR) of the assessee stated that the aims and objectives of the Trust are charitable in nature, and the activities are not limited to the benefit of the "Chhasath Prajapati Community" alone. The AR stated that the assessee's aims, as outlined in its constitution, include conducting educational activities, providing scholarships, and setting up hostels and advisory centres for students, social initiatives, such as group

marriages, youth gatherings, and efforts towards social reform and economic activities, including managing funds for the Trust's development and efforts to avail government benefits for its members.

5. The learned Departmental Representative (DR) argued that the CIT (Exemption) rightly rejected the registration application on the grounds that the assessee failed to provide the complete details and documents requested during the registration proceedings. The DR emphasized that the non-compliance with notices calling for additional documents reflected poorly on the genuineness of the activities of the Trust. The learned Authorized Representative (AR) for the assessee countered the DR's arguments, stating that the assessee had indeed uploaded all the required documents online through the Income Tax Department's portal as per the notices issued. The AR further contended that the CIT (Exemption) did not specify any particular document or detail that was not provided, and the rejection was primarily based on a misunderstanding of the nature of the Trust's activities. The AR also placed reliance on the judgement of the **Hon'ble Supreme Court in the case of CIT vs. Dawoodi Bohara Jamat [43 taxmann.com 243]**, which clarified that section 13(1)(b) of the Act applies at the stage of exemption under section 11 of the Act, not at the stage of granting registration under section(s) 12A/12AB of the Act. The AR also cited the Co-ordinate Bench's decision in **Jamiatul Banaat Tankaria vs. CIT(Exemption), Ahmedabad [ITA No. 58/Ahd/2023]**, which had set aside a similar rejection under section 12AB of the Act based on section 13(1)(b) of the Act.

6. We have carefully considered the submissions of the learned DR and AR, and perused the material on record, including the order of the CIT

(Exemption). The CIT (Exemption) rejected the application for registration under section 12AB of the Act on the grounds that the Trust's objects benefit a particular community, thereby invoking section 13(1)(b) of the Act. However, the **Hon'ble Supreme Court in the case of CIT vs. Dawoodi Bohara Jamat** has categorically held that section 13(1)(b) of the Act is applicable at the stage of assessment for determining exemption under section 11 of the Act, and not at the stage of granting registration under section 12AB of the Act. This principle was reiterated by the Co-ordinate Bench in the case of *Jamiatul Banaat Tankaria vs. CIT(Exemption)*, Ahmedabad. We reproduce hereunder the relevant portion of the said decision for the sake of clarity: –

“5. We have gone through the decision of Hon'ble Apex Court in the case of Dawoodi Bohara Jamat (supra) and we find that the ld. CIT(Exemption) has totally misappreciated the decision rendered by the Hon'ble Apex Court Jamiatul Banaat Tankaria Vs. CIT(E) AY : 2022-23 in the said case. The Hon'ble Apex Court, we find, in the said case had categorically held that Trust with charitable objects, which existed for the benefit of a particular religious community qualified as charitable entity serving the public at large and this was sufficient for grant of registration under section 12A of the Act, and the provisions of section 13(1)(b) of the Act would be attracted only at the time of granting exemption to the assessee, wherein if it was found that the trust existed for the benefit of a particular religious community only, the exemption under section 11 was to be denied to the assessee. The Hon'ble Apex Court, therefore, categorically found that as per the provisions of law, section 13(1)(b) could not be applied for denying the grant of registration but was to be applied only while granting/denying exemption to the assessee.”

6.1. This paragraph establishes that section 13(1)(b) of the Act is not relevant at the stage of registration under section 12AB of the Act, but rather comes into play at the time of assessment when determining exemption under section 11 of the Act.

6.2. The learned DR's submission regarding the failure to provide required details has been carefully considered. The assessee's AR has categorically stated that all documents were uploaded online through the official portal as per the notices issued. The CIT (Exemption) has not pointed to any specific document that remained unfiled. In the absence of any specific deficiency in documentation being highlighted, we do not find merit in the Department's argument that the assessee failed to comply with the document submission requirement.

6.3. Upon examination of the Trust's objectives, we find that the Trust is engaged in various educational, social, and economic activities that serve the public at large, not limited to the Chhasath Prajapati Community. These include scholarships, hostel facilities for students, social reform programs, and efforts to uplift the community economically. Therefore, the Trust's activities cannot be said to benefit only a particular religious or caste-based community.

6.4. The registration under section 12AB of the Act is merely a recognition of the charitable status of the Trust. The application of section 13(1)(b) of the Act would only arise at the stage of assessment when determining exemption under section 11, depending on the actual income and activities of the Trust. In view of the above findings and judicial precedents, we hold that the CIT (Exemption) erred in rejecting the application for registration under section 12AB of the Act. Accordingly, the order of the CIT (Exemption) is set aside, and the CIT (Exemption) is directed to grant registration to the assessee Trust

as applied for.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 16th October, 2024 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated 16/10/2024

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad