

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD**

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER &
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1300/Ahd/2024

(निर्धारण वर्ष / Assessment Year :NA)

KantibhaiChaturbhai Patel Charitable Trust 6 Nandi Hill, Opp. ISRO, Jodhpur Tekra, Ahmedabad, Gujarat - 380015	बनाम/ Vs.	Commissioner of Income Tax (Exemptions) Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. : AABTK0739K		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से/Appellant by :	ShriS. N. Soparkar, Sr. Advocate
प्रत्यर्थी की ओर से/Respondentby:	Shri A. P. Singh, CIT. DR

Date of Hearing	17/10/2024
Date of Pronouncement	06/11/2024

ORDER

PER SHRINARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Exemption), Ahmedabad, (in short 'the CIT(E)'), dated 26.06.2024 rejecting the application for registration under Section 12A(1)(ac)(v) of the Income Tax Act, 1961 (in short 'the Act').

2. The brief facts of the case are that the assessee is a Trust and it had applied for registration u/s.12A(1)(ac)(v) of the Act in Form No.10AB on 01.12.2023. Earlier, it was allowed provisional approval on 31.05.2021 for the A.Y. 2022-23 to 2026-27. The Ld. CIT(E) noted that the trust deed was updated

to expand the objective of the charitable activities within the main objects of the Trust. The Trust had filed an application for approval of updated trust deed before the Charity Commissioner which was approved vide order dated 17.08.2023. As per provision of Section 12A(1)(ac)(v) of the Act, the assessee was required to make an application ‘within a period of thirty days from the date of said adoption or modification’, which expired in this case on 16.09.2023. However, the present application was filed by the assessee belatedly on 01.12.2023. The assessee had not applied to CBDT for condonation of delay in this regard. Therefore, the application filed by the assessee in Form 10AB u/s.12A(1)(ac)(v) of the Act was rejected by the Ld. CIT(E) vide the impugned order and the provisional registration granted earlier was also cancelled.

3. Aggrieved with the order of the Ld. CIT(E), the assessee is in appeal before us. The following grounds of appeal have been taken in this appeal:

- “1. *On the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Exemption) [‘the CIT(E)’] erred in rejecting the application filed under section 12A(1)(ac)(v) of the Act, on procedure defect of delay in filing application in Form 10AB.*
2. *On the facts and circumstances of the case and, in law, the CIT(E) erred in rejecting the application filed u/s 12A(1)(ac)(v) on the limitation ground that the application has been filed beyond the prescribed time of 30 days from adoption or modification of amendment in object clause.*
3. *On the facts and circumstances of the case and, in law, the Ld. Commissioner of Income-tax (Exemption) [‘the CIT(E)’] further erred in cancelling the provisional registration granted under section 12A of the Act.*

Without prejudice to Ground No.1, 2 & 3 above:

4. *On facts and circumstances of the case and in law, it is prayed before Your Honours that delay in application filed u/s 12A(1)(ac) (v) of the Act may please be condoned and necessary directions may please be given to Ld. CIT(E) for granting approval u/s 12A(1)(ac)(v), considering merits of the case.*
5. *Your appellant craves leave to add, alter and/or to amend all or any of the grounds before the final hearing.”*

4. Shri S. N. Soparkar, Ld. Senior Counsel appearing for the assessee submitted that the application of the assessee was rejected for the reason that there was a slight delay in filing the present application. He explained that the Ld. CIT(E) had rejected the application for the reason that earlier the CIT(E) had no power to condone the delay in filing of the application. However, the provision of Section 12A(1)(ac) has been amended and the PCIT or the CIT has now been empowered to condone the delay w.e.f. 01.10.2024. The Ld. Counsel, therefore, requested that the matter may be set aside to the file of the Ld. CIT(E) with a direction to condone the delay and, thereafter, consider the application of the assessee.

5. Per contra, Shri A. P. Singh, the Ld. CIT. DR had no objection if the matter was set aside to the file of Ld. CIT(E), in view of the amended provisions of the Act.

6. We have considered the rival submissions. The Ld. CIT(E) had rejected the application for the reason that there was slight delay in filing of the present application. As per the finding given by the Ld. CIT(E), the assessee was required to file the present application by 16.09.2023, whereas the application was filed on 01.12.2023. At the relevant point of time, the Ld.

CIT(E) had no power to condone the delay. However, the provision of the Act had since been amended by insertion of following proviso below Section 12A(1)(ac)(vi), which is effective from 01.10.2024:

Provided that where the application is filed beyond the time allowed in sub-clauses (i) to (vi), the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within time;

In view of this newly inserted proviso, the CIT(E) has now power to condone the delay in filing of application for registration u/s.12A(1)(ac)(vi) of the Act. Being a procedural amendment, this amended provision will apply to all pending applications. Therefore, the matter is set aside to the file of the Ld. CIT(E) with a direction to first consider the condonation application of the assessee and thereafter decide the application of the assessee for grant of registration. The assessee is also directed to file a condonation application before the Ld. CIT(E) explaining the reason for delay in filing the present application. The Ld. CIT(E) should allow a proper opportunity of being heard to the assessee before deciding the matter.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

This Order pronounced on 06/11/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 06/11/2024
S. K. SINHA

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