

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

ITA No. 916/Ahd/2024

Indus Alumni Association Indus University Campus Rancharda, VIA, Thaltej, Ahmedabad-382115 Gujarat, India PAN: AACTI0130M (Appellant)	Vs	The CIT (Exemption), Ahmedabad (Respondent)
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**Assessee Represented: Shri S. N. Divatia &
Shri Samir Vora, A.R.
Revenue Represented: Shri R.N. Dsouza, CIT-DR**

Date of hearing : 30-09-2024
Date of pronouncement : 04-11-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the order dated 30.03.2024 passed by the Commissioner of Income Tax (Exemption), Ahmedabad denying Registration under section 12AB of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. Brief facts of the case is that the assessee is a Trust registered under the provisions of Gujarat Public Trusts Act, 1950. The main

objects of the Trust are educational, medical relief and charitable. The Trust is a non-government, non-political and non-profit organization devoted to the above objectives. The Trust is created for the benefit and advancement of the whole mankind of the society without discrimination of caste, creed, sex and religion of any person. The Trust has been engaged in to charitable activities for the betterment of the society and every person in the society.

2.1. The assessee got provisional approval for Registration u/s. 12AB on 14-03-2022 from Ld. CIT(Exemption), Ahmedabad for the Asst. Years 2022-23 to 2024-25. It is thereafter, the assessee Trust made application for final Registration u/s. 12AB by filing Form 10AB on 23-09-2023.

2.2. The Ld. CIT(E) requested the assessee Trust to specifically submit the details and documents relating to the activities carried out by it and the objects of the Trust are meant for the benefit of its members only and not for the public at large, thus does not fall under the category of charitable object as per the provisions of Section 2(15) of the Act, thereby requested the assessee Trust as to why the application filed under Form 10AB for final registration should not be rejected.

3. In reply the assessee Trust submitted that the members of the association collect funds amongst them and utilise the same in functions like events, seminar, science fairs, educational fairs, book fairs, educational webinars, educational trips and religious festivals that are celebrated at the university. The funds of the association is collected by the members of the applicant trust and the same is

used for the betterment of the whole mankind. Thus the applicant Trust is doing activities for the betterment of the society in the nearer villages of the trust. The members of the Trust has arranged many social awareness camps and programs for the villagers and general public at large. The detailed description and the evidences related to the activities conducted by the Trust during such period are described hereinunder in a tabular manner with relevant descriptions and necessary images for ready reference.

<i>Sr. No.</i>	<i>Description of activity</i>	<i>Dated</i>
1	<i>project "Nivaala" (a food donation drive)</i>	
2	<i>Sakhi 2.0 An event that aimed to educate people, especially 13/12/2023 women</i>	<i>13/12/2023</i>
3	<i>Community Program Outreach 'One-Day Workshop on English for 09/10/2023 Young Learners'</i>	<i>09/10/2023</i>
4	<i>Blood Donation Thalassaemia test awareness program Drive, and</i>	<i>24/11/2023</i>
5	<i>eye check-up program</i>	
6	<i>two-day national conference on India Most revered ecological concept of Acharanam with the aim off exploring the incorporation of and "ancient scriptures" teachings into daily Indian life</i>	
7	<i>Momentous known "KSHUDHAPOORTI" occasion as distribution of an equivalent number meals, of nourishing</i>	<i>15/08/2023</i>
8	<i>Generously Contributed for the new library for the under privilege school children in Tramba village by Aimtron Foundation.</i>	
9	<i>Rotaract Club visited "Jivan Sandhya" and arranged the "Muskan Melo"</i>	<i>12/10/2023</i>
10	<i>Vocal for Local Exhibition"</i>	<i>07/11/2023</i>
11	<i>Swachh Bharat Abhiyan Week with a special celebration at Racharda Primary School an impactful "Nukkad Natak"</i>	<i>06/10/2023</i>
12	<i>Chhat ki Chahat creating 45 protective shelters for deserving families. Beyond just providing shelters</i>	
13	<i>titled "Sustainable Living Caring for Climate," featuring Miss Aarya 27/02/2024 Chavda, the youngest Indian to represent at UNESCO HQ in Paris at the ages of 9 and 12</i>	<i>27/02/2024</i>
14	<i>Indus Alumni Meet 2024, organized by Indus Alumni Association, nostalgic journey down memory lane, bringing together alumni, faculty, and staff of Indus University to celebrate their shared experiences achievements and</i>	
15	<i>India's 75th Republic Day by celebrating the occasion with utmost* pride and patriotism</i>	<i>26/01/2024</i>
	<i>Indus Student Activity Cell (ISAC) and Rotaract Club of Indus University (RCIU) has arranged Blood donation camp</i>	

3.1. The members of the applicant trust has arranged the program for the alumni students with the theme of the tradition of India with the help of the old memory of the alumni members of the applicant trust. The whole program was arranged to appreciate the Indian culture. The members of the applicant trust has also participated in the clean India campaign in the nearer area of the Trust. The main object behind this campaign was to bring awareness in the people of village about cleanliness and the hygiene factors in life which leads to less decease and healthy life. The campaign was effective and useful to the general public which was again arranged in two parts to bring awareness and motivation to the people of villages. The members of the applicant trust along with some members has also organized literacy awareness program in some slum areas of the city. The main motive behind The education awareness is to bring every single child to the school and to support their right to education. The education awareness program was successful as the member of the applicant trust has tried their best to reach the goal of the Trust. It is therefore submitted that the Trust to take into consideration the actual activities carried out by the trust during such financial years along with the relevant documents supported to the activities carried out by the Trust. It is further submitted by the Trust that the funds raised by it is only utilized in the purpose of their growth in the fields of education. The seminars and webinars arranged by the trust is open for the public at large to enhance the knowledge of the society. The applicant trust is not doing any non-charity activities, thus they are eligible for final registration u/s. 12AB of the Act.

4. The Ld. CIT(E) considered the above reply and held that the objects of the Trust are for the benefit/welfare/interest of the members of the association only namely alumni and faculty members of Indus University and not for the benefit of public at large. Thus, does not fall within the ambit of charitable purposes as defined u/s. 2(15) of the Act and not eligible for Registration u/s. 12A of the Act. Thus Ld. CIT(E) rejected the application filed by the assessee and also cancelled the provisional Registration granted to the Trust.

5. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

1.1 The order passed by U/s.12AB passed on 30.03.2024 by CIT(Exem), Ahmedabad rejecting the application for registration of the appellant trust u/s 12A(1)(ac)(iii) of the Act and cancelling the provisional registration is wholly illegal, unlawful and against the principles of natural justice.

2.1 The Id. CIT(Exem), has grievously erred in law and or on facts in not appreciating fully and properly the submissions made and evidence produced by the appellant in support of the contention that it was a public charitable trust within the ambit of sec.2(15) of the Act so that it was entitled to registration u/s 12AB of the Act.

3.1 The Id. CIT(Exem), has grievously erred in law and or on facts in rejecting the application for registration u/s 12AB of the Act holding that the appellant trust was not for the benefit of public, though the appellant trust had produced enough evidence to prove that it was established and also carrying on activities for the general public utility apart from medical relief etc.

3.2 That the in the facts and circumstances of the Id. CIT(Exem), ought not to have rejected the application for registration by mis-construing the object clause of the trust and disregarding the activities carried on by it which conclusively proved that the trust was established and carrying on for the advancement of general public utility and as such it was within the ambit of Sec. 2(15) of the Act.

It is, therefore, prayed that the rejection of the application for registration and cancellation of the provisional registration by the CIT(Exem), may kindly be deleted.

6. We have heard rival parties and perused the materials placed on record. In our considered view, looking into the objects of the trust, it cannot be held that the assessee/applicant trust has been formed only for the benefit of a particular set of public namely alumni and faculty members of the University. Perusal of the activities carried out by the Trust as reproduced in the table at Paragraph 3 above namely Food Donation, Blood Donation, Women Empowerment, English Learning, Awareness of ecological concept, New Library for the under privileged school children in Tramba Village activities clearly demonstrate that the Trust is not doing a charitable activities only for the alumni members of the Trust but for the general public at large. Further, we also agree with the Counsel for the assessee that this aspect should be considered at the time of grant of exemption under Section 11 of the Act and the provisions of Section 13 should not be invoked at time of grant of registration under Section 12AA of the Act in the result.

7. The above view of ours is supported by the Co-ordinate Bench of this Tribunal in the case of Parul University Alumni Association Vs. CIT(E) reported in [2024] 162 taxmann.com 98 wherein it was held as follows:

“Before us, the Counsel for the assessee submitted that Objects mentioned in the constitution of the appellant trust falls in the fifth and residuary limb contained in the definition of "Charitable purposes under Section 2(15) the "Advancement of any other general public utility". It was submitted that advancement of any other general public utility comprises

an array of combination of three significant words, namely, "general" meaning pertaining to a whole class, 'public' meaning the body of people at large irrespective of their class and 'utility' meaning usefulness. Therefore, **the advancement of any object beneficial to the public or a Section of public as distinguished from an individual or group of individuals would be a charitable purpose as held in CIT. Ahmedabad Rana Caste Association [1973] 88 ITR 354(SC). It was further submitted before us that the expression 'public' includes cross section of public. It is well settled that for satisfying the requirements of Section 2(15), it is not necessary that the benefit should reach each and every poor person in the state or country.** The court in the case of Girijan Co-operative Corporation Lid v. CIT [1989] 178 ITR 359(AP) held that it is sufficient if it reaches a sizable number of members of public Further it was submitted by the Ld Counsel for the assessee that **in the case of CIT v. Indian Sugar Mills Association [1974] 97 ITR 486 (SC) it was held that "the expression object of general public utility' is not restricted to objects beneficial to the whole of mankind or even all people living in particular country or province. It is sufficient if the intention is to benefit a section of the public as distinguished from specified individuals. The Section of the public sought to be benefited must undoubtedly be sufficiently defined and identifiable by some common quality of a public or impersonal nature, where there is no common quality uniting the potential beneficiaries into a class, it may not be regarded as valid."** It was submitted that trust is inviting all students irrespective of any university to take the benefit of activities and not restricted to few individuals, hence benefit of objects of the trust relying on the above cited pronouncement cannot be said that it is for particular community and not for general public. The Ld. Counsel for the assessee placed reliance on the case of CIT v. Surji Devi Kunji Lal Jaipuria Charitable Trust 119901 87 CTR 211/186 ITR 725/53 Taxman 112 (Allahabad), wherein the High Court observed that giving financial help for the marriage of girls of a particular community would be considered as charitable purpose even if the beneficiaries were not necessarily poor. It was held that spending money in the marriages of girls of the Vasya community was a charitable purpose and that it was not necessary that it should be beneficial to the poor only. What was required was benefit to a Section of the public as distinguished from specified individuals. The Ld. Counsel for the assessee further submitted that question whether the trust is created or established for the benefit of any particular religious community or caste would be relevant when the income of the trust is being assessed to tax and the question arises whether such income should be excluded from the total income of the trust in terms of Section 11 of the Act and not so far as grant of registration under Section 12AA of the Act is concerned. For purposes

of registration under Section 12AA of the Act, Ld. CIT(E) should follow the requirements of grant of registration and not requirement of claiming tax benefit as envisaged under Section 11 of the Act. However, in the instant case the Ld. CIT(E) rejected the application by invoking Section 13 at the time of grant of registration itself, which is not correct. Section 13 gets triggered only at the time of examining the claim of exemption under Section II and not at the time of grant of registration to the Trust. Reliance was pleaded on following judgments:

a. (2014) 42 taxmann.com 181221 Tasman 75 (Gujarat) High Court of Gujarat in case of Commissioner of Income tax, Rajkot-II v. Leuva Patel Samaj Trust.

b. Shantageurs Ramniklal Trust CIT [1999] 239 ITR 528

c. Jamiatul Bannat Tankaria [TS-166-ITAT-2024 (AHD)]”

8. Respectfully following the above judicial precedent, the ground raised by the assessee is hereby allowed. The impugned order is hereby set aside with a direction to ld. CIT(E) to grant final registration u/s. 12AB of the Act.

9. In the result, the appeal filed by the Assessee is hereby allowed.

Order pronounced in the open court on 04-11-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 04/11/2024

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

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