

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "A" BENCH : PUNE
BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

I.T.A.No.737/PUN./2023
[U/sec.12AA of the Income Tax Act, 1961]

Faizan-E-Gous-E-Azam Trust, No.129, S.No.75/36, Sayyed Nagar, Hadaspur, PUNE – 411028. Maharashtra. PAN AAATF8854F	vs.	The Commissioner of Income Tax (Exemptions), Room No.322, 3 rd Floor, Income Tax Office, PMT Bldg., Shankar Seth Road, PUNE – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Ankit Chokshi
For Revenue :	Shri Amol Khairnar, CIT-DR

Date of Hearing :	28.11.2024
Date of Pronouncement :	29.11.2024

ORDER

PER RAMA KANTA PANDA, V.P. :

This appeal filed by the Assessee is directed against the order dated 30.04.2023, of the learned CIT(E), Pune, rejecting the application for grant of registration u/sec.12A of the Act and thereby rejecting the provisional registration granted earlier on 10.03.2024 u/sec.12AB of the Income Tax Act, 1961 (in short "the Act").

2. Facts of the case, in brief, are that the assessee filed an application for registration in Form-10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 on 01.10.2022. With a view to verify the genuineness of the activities of the assessee-trust and compliance to requirements

of any other law for the time being in force by the Trust/Institution as are material for the purpose of achieving its objects, a notice was issued through ITBA portal on 22.02.2023 requesting the assessee to upload certain information/clarification such as date of commencement of activity, date of expiry of provisional registration, details of any other Law applicable for achievement of objectives and the proof of compliance of said Law, proof of identity of main trustees/directors, year-wise list of donations received, list of donors, note on activities along with supporting credible evidence, details of business undertakings etc. In response to the same, the assessee submitted its response by filing certain details.

2.1. On verification of the details submitted by the assessee, the learned CIT(E) noted that object Nos.1, 2, 4 and the overall arrangement of the objectives through object nos.3, 5, 6, 7, 8, 9, 17, 18(1), 18(1) is to propagate Islam and for the benefit of a particular religious community and not for general public. He further noted that assessee has not furnished the details on the nature of the activities and it seems that objects of the Trust/Institution are produced therein without giving the details of actual activities carried out by the Trust/Institution. He, therefore, was of the opinion that assessee has failed to comply with the provisions of Rule-17A(2)(k) of the Income Tax Rules, 1962. He, therefore, asked the assessee

vide notice dated 22.02.2023 to furnish the supporting credible evidence in respect of the activities undertaken. The assessee submitted that the objections of the Trust/Institution are not wholly related to religious but are both charitable and religious. The assessee listed-out the objects and contended that these objects do not restrict the activities to religious obligations only.

2.2. However, the Ld. CIT(E) was not satisfied with the submissions of the assessee. He observed that assessee has not carried-out any of the activities other than the religious activities. Most importantly, the religious activities are restricted to a particular religious community and not open to general public. The details of activities submitted by the assessee show religious activities in entirety. He further noted that the financial statements as on 31.12.2022 show donations of Rs.135.82 lakhs with expenditure on religious activities at Rs.34.01 lakhs and with a surplus of 101.52 lakhs. A meagre expenditure of Rs.27,270/- is appearing the financials shown to be for medical purposes but no evidence of the same was furnished. He further noted that the assessee has also not furnished any evidence to support its contention that the expenditure is incurred for general public. He, therefore, asked the assessee to furnish the list of donors with their details like name, address, amount of donation, mode of donation etc.. However, the assessee did not furnish such list.

He observed from the details furnished by the assessee that it is not clear as to how the donors came to know about the projects of the assessee and in fact about the assessee itself in such a short span of time to collect funds of such a huge amount. The failure to furnish the list of donors by the assessee raises more concern. He, therefore, was not satisfied about the objects of the assessee and the genuineness of its activities.

2.3. Without prejudice to the above, he observed that the date of commencement of activities is on 01.04.2022 and the provisional registration was granted w.e.f. 10.03.2022. As per the provisions of clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961, where a Trust or Institution has been provisionally registered under section 12AB of the Act, the application for regular registration under section 12AB is required to be filed within 6 months from the date of commencement of activities. Since, the activities of the assessee were already commenced before the date of provisional registration, the learned CIT(E) was of the opinion that the assessee should have filed the present application within 6 months from the date of provisional registration i.e., on or before 30.09.2022, which was the extended due date for filing of such application as per CBDT Circular No.8/2022, dated 31.03.2022. However, the present application was filed by the assessee on 01.10.2022 i.e. beyond 30.09.2022. He,

therefore, asked the assessee to show cause as to why the application should not be cancelled.

2.4. The assessee in response to the same, contended that the delay was due to glitches of the respective web-site. He also made an alternate argument that the commencement of major activities was May, 2022.

2.5. However, the learned CIT(E) was not satisfied with the submissions of the assessee and rejected the claim of registration as well as cancelled provisional registration granted earlier by observing as under :

“5.3. The submissions of the assessee is duly considered. Firstly, the assessee in its own initial submission submitted that the date of commencement of activities is 01/04/2022 and now contends that the major activities are started from May, 2022. By using the work "major, the assessee itself does not deny that the minor activities were started as per earlier communication ie, from 01/04/2022 Most importantly there is no mention of major or minor activities but only the activities are to be taken note off. Thus, the contention of the assessee is not acceptable. Surprisingly, some of the photographs - as submitted by the assessee in support of its claim of activities, show a sign board of the assessee which mentions "Since 2021". In view of the above facts, the new

claim of the assessee in respect of date of commencement of activities is not acceptable.

5.3. *Considering the above, it is seen that the assessee has not filed the present application within the time limit allowed under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961, and hence, the application itself is invalid.*

6. *In view of the above, the application filed by the assessee is hereby rejected and the provisional registration granted on 10/03/2022 under section 12AB read with section 12A(1)(ac)(vi) of the Income Tax Act, 1961 is hereby cancelled.”*

3. *Aggrieved with such order of the learned CIT(E), the assessee is in appeal before the Tribunal by raising the following grounds :*

- 1. The appellant trust is a religious trust created on 13th January 2022 through execution of Trust Deed.*
- 2. The appellant trust was provisionally registered under sub clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act and order for provisional registration was given in Form 10AC w.e.f. 10.03.2022. Therefore, the appellant trust applied for final registration under sub clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act vide application filed in Form 10AB dated 01.10.2022.*

3. *Thereafter, a notice calling for certain information/details u/s 12AB(1)(b)(i) of the Act dated 22.02.2023 was served upon the appellant trust. In response to the said notice, your appellant trust furnished the details called for*
4. *Thereafter, notice dated 18.04.2023 was issued upon your appellant trust to show cause as to why the application should not be rejected and why the registration granted should not be cancelled for the reasons that the present application is not filed in time, the trust is created for the benefit of Islam and for the benefit of particular religious community and evidence for activities carried out is not submitted*
5. *In response to the said notice, your appellant trust furnished that the application is filed within the time along with the various documents and photos as evidences for activities carried out by the trust.*
6. *However, without considering the said reply, the Ld. CIT(E) rejected the application and also cancelled the provisional registration of the Trust u/s. 12A of the Act*
7. *Therefore, your appellant Trust is aggrieved by the order of the Ld. CIT(E) and therefore is in appeal by payment of necessary appeal fees vide challan Serial No. 06936 dated 19.06.2023.”*

4. Learned counsel for the Assessee, at the outset, filed an application seeking permission of the Bench for

admission of certain additional evidences as per Rule 29 of the I.T. Rules, 1962 and submitted that these additional evidences go to the root of the matter for deciding the appeal. He, accordingly requested that additional evidences be admitted and the matter may be remanded to the file of Ld. CIT(E) for adjudication of the issue afresh.

5. The Learned DR on the other hand, while supporting the order of the Ld. CIT(E) strongly objected to the admission of the additional evidences. He submitted that adequate opportunity was granted by the CIT(E) to the assessee to substantiate its case for allowing registration u/sec.12A of the Act. The details furnished by the assessee were not appreciated by the CIT(E) and he has given valid reasons for rejecting the grant of registration u/sec.12A of the Act. He accordingly submitted that the order of the CIT(E) being self-explanatory be upheld and the grounds raised by the assessee should be dismissed.

6. We have heard the rival arguments made by both the sides and perused the material available on record. We find the Ld. CIT(E) has rejected the application of the assessee seeking grant of registration u/sec.12A of the Act and thereby, cancelled the provisional registration granted earlier on the ground that the activities carried-out by the assessee Trust/Institution are for a particular religious community and not open for general public; the assessee did not produce the

list of donors who made donations to the assessee Trust and that the genuineness of the activities are doubtful. It is also observed by the Ld. CIT(E) that some of the photographs as submitted by the assessee in support of its claim of activities show a sign board of the assessee which mentions "since 2021". Therefore, the new claim of the assessee in respect of date of commencement of its activities is not acceptable. Now the assessee has come-up before the Tribunal with certain additional evidences to support its case for grant of registration u/sec.12A of the Act. It is the submission of the Learned Counsel for the Assessee that these additional evidences go to the root of the matter. Considering the totality of the facts of the case and in the interest of justice, we admit the additional evidences and restore the issue back to the file of Ld. CIT(E) with a direction to give one more opportunity to the assessee to substantiate its case and decide the issue as per fact and law. We clarify here that we are not giving any opinion about the merit of the case at this juncture and the CIT(E) is free to peruse the material and pass appropriate order as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 29.11.2024.

Sd/-
[MS. ASTHA CHANDRA]
JUDICIAL MEMBER

Sd/-
[RAMA KANTA PANDA]
VICE PRESIDENT

Pune, Dated 29th November, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "A" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.