

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'बी', अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

BEFORE MRS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No. 1404/Ahd/2024
[निर्धारणवर्ष/Assessment Year: NA]

Shree Santalpur Khodadhor Panjara Pol Gausala At Santalpur, Patan Patan - 385 360 (Gujarat) PAN: ABHTS 7344 H	Vs.	The Income Tax Department CIT (Exemption) Ahmedabad - 380 015
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :	Shri Hasmukh V. Doshi, CA	
Revenue by :	Shri V Nandakumar, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 28.11.2024
घोषणा की तारीख /Date of Pronouncement: 29.11.2024

आदेश/ORDER

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER:

This appeal preferred by the Assessee is against the order dated 20/06/2024 passed by the learned Commissioner of Income-Tax (Exemption), Ahmedabad [in short "Ld.CIT(E)] denying grant of registration u/s.12AB of the Income Tax Act, 1961 (in short "the Act").

2. Grounds raised by the assessee are as under:-

1. *On the facts and in circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Exemption) has erred in rejecting application for registration u/s 12AB of the Act.*

2. *On the facts and in circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Exemption) has not provided reasonable opportunity of being heard as provided under Second Proviso to Section 12AB(1)(b)(ii)(B) of the Act.*

3. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

3. The solitary plea before us is that the assessee-trust was not granted adequate opportunity of hearing by the Ld.CIT(E). Drawing our attention towards the facts of the case, the Ld.Counsel for the assessee pointed out that the assessee-trust is registered under the Bombay Public Trust Act for carrying out charitable activities relating to maintain Panjarapole & Gausala for taking care of animals. The assessee filed an application u/s.12AB of the Act on 27/12/2023 in Form No.10AB under Rule 17A of Income Tax Rules, 1962 seeking registration as a charitable entity. Thereafter, he pointed out that only one notice of hearing was issued to the assessee on 02/04/2024 by the Ld.CIT(E) asking to furnish detailed note on the activities carried out by the trust as well as certain details/documents. The Ld.Counsel for the assessee pointed out that reply was furnished on 13/04/2024 and, thereafter, without any further notice issued to the assessee, the Ld.CIT(E) passed order on 20/06/2024 rejecting the application filed by the assessee for the reason that the assessee had not submitted any corroborative evidence regarding whether they had claimed exemption u/s.11, 12 or 10(23C) of the Act or not. In this regard, he drew our attention towards the order dated 20/06/2024 of the Ld.CIT(E) at paragraph No.7.3, which reads as under:

“7.3. Hence, even though it was specifically asked vide above referred notice, the applicant has not submitted any corroborative evidences/ITRs/details regarding whether they have claimed exemption u/s.11, 12 or 10(23C) of the Act or not and accordingly, the present application filed is liable to be rejected as such as non-maintainable.”

4. The Ld.Counsel for the assessee contended that, firstly, adequate opportunity of hearing was not given to the assessee and, even otherwise, the fact of the assessee having claimed exemption u/s.11, 12 or 10(23C) of the Act was available with the Income Tax Department and, therefore, rejecting the assessee's application for the reason was against all canons of law. He prayed for restoration of this matter back to the file of Ld.CIT(E) for grant of adequate opportunity for hearing to the assessee by the Ld.CIT(E), while considering the assessee's application for grant of registration u/s. 12AB of the Act.

5. The Ld.DR has no objection if the matter is remanded back to the file of Ld.CIT(E), though he vehemently supported the order of the Ld.CIT(E).

6. We have heard both the parties and gone through the order of the Ld.CIT(E) and we are in agreement with the Ld.CIT(E) that the denial of grant of registration by the Ld.CIT(E), in the present case, has been done without granting proper opportunity of hearing to the assessee. We have noted that only one notice of hearing was given to the assessee. Even otherwise, as rightly pointed out by the Ld.Counsel for the assessee, the reason for denying grant of registration to the assessee of having not furnished details/documents of having claimed exemption u/s.11, 12 10(23C) of the Act, was information which ought to have been otherwise available with the Department itself. Therefore, for the reason that the impugned order passed by the Ld.CIT(E) is without granting adequate opportunity of hearing to the assessee and finding no substance/strength in the reason given by the Ld.CIT(E) for denial of grant of registration, we consider it fit to restore the issue back to the file of Ld.CIT(E) for reconsideration after affording proper opportunity of hearing to the assessee and collecting necessary information as

required under the law while considering assessee's application for grant of registration u/s.12AB of the Act.

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

Order pronounced in the open Court on 29/11/2024 at Ahmedabad.

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

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad; Dated 29/11/2024

TC Mer. S//S

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलर्णी / The Appellant
2. प्रत्यर्णी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ं पील) / The CIT(E) - Ahmedabad
5. विभागीय प्रतिनिधि, आयकर ँ पीलीय ँ धिकरण , /DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

//TRUE COPY//

सहायक पंजीकार (Asstt. Registrar)
आयकर ँ पीलीय ँ धिकरण
ITAT, Ahmedabad