

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

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.1836/KOL/2024  
(Assessment Year: 2023-24)**

**Bhagwati Foundation**  
6th Floor, 4 India Exchange  
Pace, Kolkata-700001,  
West Bengal

**(Appellant)**

**CIT (Exemption)**  
10B Middleton Road,  
Kolkata-700071, West Bengal

**Vs.**

**(Respondent)**

**PAN No. AAATB6671L**

**Assessee by** : Shri Devesh Poddar, AR  
**Revenue by** : Shri Praveen Kishore, CIT DR

**Date of hearing:** 20.11.2024  
**Date of pronouncement :** 02.12.2024

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the CIT (Exemption), Kolkata(hereinafter referred to as the "Ld. CIT(E)") dated 31.07.2024 for the AY 2023-24.

02. The only issue raised by the assessee in the various grounds of appeal is against the order of Id. CIT (E), Kolkata, refusing to grant approval of Section 12A(1)(ac)(iii) of the Income-tax Act, 1961 (the Act), on the ground that the trust deed of the trust is not having irrevocability Clause or Dissolution Clause by ignoring the facts that both the clauses were adopted by the trustees by resolution dated 28.07.1986.
03. The facts in brief are that the assessee filed application u/s 12A(1)(ac)(iii) of the Act in Form No.10AB on 02.01.2024.

Accordingly, vide notice dated 21.06.2024, certain information/details were sought from the assessee but the assessee has not complied with the said notice dated 01.07.2024. Thereafter the assessee replied by filing requisite documents and evidences on 05.07.2024 and 14.07.2024. According to the CIT(E), the trust deed of the assessee's trust deed was not containing any irrevocability clause or dissolution clause although a resolution passed by the managing committee of the trust adopting the said clauses a copy of which was furnished before CIT(E) on a plain paper instead of affidavit and notarized stamp paper. The Id. CIT(E) observed that the irrevocability and resolution clauses are main clauses to ensure that the trust operate with a clear consistent purpose and provides structured approach for the distribution of assets if the trust is ever dissolved. The CIT(E) finally treated the application for registration u/s 12A(1)(ac)(iii) of the Act, as non maintainable and accordingly rejected the same besides cancelling the provisional certification granted to the assessee with effect from the date of its issue.

04. Aggrieved by the order of CIT(E) , the assessee preferred an appeal before the Tribunal and submitted that the CIT(E) has simply rejected the application for registration filed by the assessee on the ground that the trust deed does not contain irrevocability and resolution clause. The Id. AR subsequently submitted before us that this cannot be ground for rejection. The Id. AR submitted the main object of the trust are contain and mentioned in the trust deed and were not doubted at all by the CIT(E) and the application for registration has been rejected on technical ground only. The assessee submitted the trust has been functioning regularly and has been carrying on its activities accordance with the main objects which were never doubted. The Id. AR submitted that merely on the basis that the trust

deed did not contain any dissolution or irrevocability clause, the registration of the trust u/s 12A of the Act cannot be denied nor provisional Registration granted u/s 12A cannot be cancelled. In defense of his argument, the Id. AR relied on the decision of Rajasthan High Court in case of Commissioner of Income Tax (Exemptions), Jaipur Vs. Shri Narshingji Ka Mandir (2020) 119 axmann.com 476 (Rajasthan) dated 05.09.2019. The Id. AR submitted that in view of the ratio laid down by the Hon'ble jurisdictional High Court a direction to CIT(E) to grant the registration.

05. The Id. DR on the other hand, relied on the order of CIT(E) by submitting, since, the above clauses as regards dissolution / irrevocability were not there, therefore, registration was rightly rejected by the CIT(E).
06. After hearing the rival contentions and perusing the materials available on record, we find that the trust has regularly functioning since its inception and pursuing its objects as prescribed in trust deed. The trust was registered vide registration no. 1556/CT/BE23486-87 dated 10.07.1989. The Revenue has not either doubted the nature of activities carried on by the assessee trust nor any adverse remarks were ever drawn in the instant case. The registration is rejected merely on the ground trust deed did not contain the dissolution and irrevocability clause. Moreover, we note that the assessee has already filed a resolution adopted by the management committee, wherein the dissolution and irrevocability clause were already adopted and finally incorporated into the trust deed. In our opinion, the case of the assessee was squarely covered by the decision of the Rajasthan High Court in case of *Shri Narshingji Ka Mandir (supra)*, wherein the Hon'ble court has held that

registration to the trust cannot be denied on the sole ground that the no clause was provided in trust deed about dissolution of trust, even trust without containing these clauses in the trust deed is valid. Similarly, the co-ordinate Bench in the case of Shri Agarwal Panchayat Vs. ITO (2017) 88 taxmann.com 370 (Jodhpur-Trib.), held that the registration u/s 12A cannot be denied on the ground that there is no dissolution clause in the trust deed. In view of the above facts and the ratio laid down in the above decisions, we are inclined to set aside the order of Id. CIT (A) and direct the Id. CIT (A) to grant registration to the trust.

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

Order pronounced in the open court on 02.12.2024.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated:02.12.2024

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata