

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMEBR**

I.T.A. No. 996/Ahd/2023  
(Assessment Year: NA)

<b>Shree Sharvashram Jagruti Sansthan Trust</b> At Kukad Post Kukad Ghogha, Tal: Gogha, Bhavnagar 364120 Gujarat	Vs.	<b>CIT(Exemption)</b> Ahmedabad
[PAN No.AAMTS3168F]		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Mohit Balani, A.R.
<b>Respondent by:</b>	Shri V. Nandakumar, CIT. D.R.

<b>Date of Hearing</b>	03.12.2024
<b>Date of Pronouncement</b>	06.12.2024

ORDER

**PER SIDDHARTHA NAUTIYAL, JM:**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad vide order dated 12.10.2023.

2. The assessee has raised the following grounds of appeal:-

- “1. Learned CIT(E) has erred in law and on facts of the case in passing the impugned order ex-parte.
2. Learned CIT(E) has erred in law and on the facts of the case in rejection the provisional registration of the Appellant u/s 12AB of the Act.
3. Your appellant reserves the right to add, delete, modify or revise any ground of appeal.”

- 2 -

3. Brief facts of the case are that the application filed by the assessee for registration of the Trust under Section 12AB of the Income Tax Act, 1961 (in short 'the Act') was dismissed/rejected by the Ld. CIT(E) on the ground that the assessee has failed to file documentary evidences to satisfy the CIT(E) regarding the genuineness of the activities of the Trust, that the activities of the trust are in consonance with the objects of the trust and that relevant laws for achieving the objects have been complied by the Applicant Trust. While passing the order, the Ld. CIT(E) made the following observations:

*"In reference to the application filed by the applicant in FORM 10AB (with above details), the applicant was requested to submit certain details/documents vide notice dated 11.08.2023. In response to the said notice, the applicant vide its reply/response dated 23.08.2023 had submitted certain details/documents. On perusal of details/documents submitted by the applicant it is found that the applicant has submitted part details/documents and has failed to submit all the requisite details/documents as asked vide above notices dated 11.08.2023.*

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*In response to the above notice dated 05.10.2023, the applicant has neither filed any submission nor sought any adjournment in this case. Hence, in absence of the requisite details, the present case is required to be decided based on material/details/documents available on record.*

*On perusal of the documentary evidences submitted along with the present application filed in FORM No. 10AB u/s 12A(1)(ac)(il) of the Act, it is observed that the applicant has failed to furnish following details which are essential to decide the application as per Income Tax Rule:*

*Note on the activities of the applicant.*

17A(2)(K)      *The applicant in its present application has only stated that Trust has carried out a Hath vanat Talim, Yog shibir, Paryavaran Janjagruti, Hastkala, Sanskruti Related Exp.*

*and*

*other details called for vide notice dated 05.10.2023 u/s. 12AB(1)(b) of the Income Tax Act.*

.....  
.....

10. *As discussed above, the applicant/assessee has failed to file documentary evidences to enable me to satisfy about:*

- i. Genuineness of the activities of the trust or institution.*
- ii. That the activities of trust or institution are in consonance with the objects of the trust or institution.*
- iii. That other laws material for the purpose of achieving objects are complied with.”*

4. The assessee is in appeal before us against the aforesaid order passed by the Ld. CIT(E) rejecting the application filed by the assessee for registration of trust.

5. Before us, the Ld. Counsel for the assessee filed an application and submitted that only two notices of hearing were issued to the Applicant Trust. In response to the first notice dated 11.08.2023, the assessee had submitted certain details/documents. Thereafter, the Ld. CIT(E) issued second notice dated 05.10.2023, for which, compliance was required to be made by 09.10.2023. The Ld. Counsel for the assessee submitted that the said notice was issued by way of email to the assessee’s consultant and on receipt of the same, the assessee immediately began the process of collecting the requisite details and documents, however, given the limited time frame, in which the applicant trust was required to furnish the information, it could not file the details within the dates stipulated in the notice. Further, inadvertently neither the applicant trust nor its consultant filed request for adjournment to seek additional time. However, the Ld. CIT(A) without giving any further opportunity of hearing passed an ex-parte order immediately on 12.10.2023 rejecting the application for provisional registration u/s.12AB of the Act. The

- 4 -

Ld. Counsel for the assessee submitted that the order rejecting the application filed by the applicant trust has been passed in gross violation of principle of natural justice, without giving adequate opportunity to the trust to present its case on merits. Only two notices of hearing were given and without giving adequate opportunity of hearing, the Ld. CIT(E) dismissed the application of the Applicant Trust in a summary manner against the principle of natural justice. Accordingly, looking into the instant fact, the Ld. Counsel for the assessee submitted that the matter may be restored to the file of the Ld. CIT(E) for de novo consideration, after giving due opportunity of hearing to the assessee and, thereafter, to decide the application of the applicant trust on the basis of material available on record, in accordance with law.

6. In response, Ld. DR also did not object to the matter being restored to the file of Ld. CIT(E) for de novo consideration.

7. Looking into the facts of the instant case, we observe that only two notices of hearing were issued by the Ld. CIT(E). In response to the first notice dated 11.08.2023, the assessee had filed response dated 23.08.2023, in which, part details were submitted. Thereafter, the Ld. CIT(E) issued another notice dated 05.10.2023 in which the assessee was required to make compliance by 09.10.2023. Further, in absence of any details/adjournment application filed by the assessee/applicant trust, Ld. CIT(E) proceeded to pass ex-parte order without giving further opportunity of hearing to the assessee/applicant trust on 12.10.2023 rejecting the application filed by the Applicant Trust u/s.12AB of the Act. Accordingly, in light of the instant facts, we are of the considered view that this is a fit case where the matter may be

- 5 -

restored to the file of the Ld. CIT(E) for de novo consideration after giving due opportunity to the assessee to present its case on merits and thereafter, pass appropriate orders in accordance with law, in light of the materials produced by the applicant trust.

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

**This Order pronounced in Open Court on 06/12/2024**

**Sd/-**  
**(MAKARAND V. MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 06/12/2024

*Sr. PS*

*True Copy*

**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**