

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "C" BENCH

**Before: Shri TR Senthil Kumar, Judicial Member  
And Shri Narendra Prasad Sinha , Accountant Member**

**ITA No. 1579/Ahd/2024  
Assessment Year : NA**

AR Rahman Educational & Cultural Society, Ahmedabad PAN: AACTR4383F (Appellant)	Vs	The CIT(Exemption), Ahmedabad (Respondent)
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**Assessee by: Shri Sunil Talati, A.R.  
Revenue by: Shri Sudhendu Das, CIT-D.R.**

Date of hearing : 28-11-2024  
Date of pronouncement : 18-12-2024

**आदेश/ORDER**

**PER : NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

This appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax (Exemption), [CIT(E)], Ahmedabad, dated 29/08/2024.

2. The brief facts of the case are that the assessee is a trust and was incorporated on 28<sup>th</sup> May, 1997. An application in

Form no. 10AB was filed electronically for approval of the trust u/s. 80G(5)(iii) of the Income Tax Act, 1961, which was rejected by the ld. CIT(E) vide the impugned order.

3. Aggrieved with the order of the ld. CIT(Exemption), the assessee has filed the present appeal. The following grounds of appeal have been taken in this appeal: -

1. *The Ld. CIT(E) has erred in passing an order in Form 10AD by rejecting the appellant's current application filed in Form 10AB for registration or approval u/s 80G(5) of the Income Tax Act, 1961. It is submitted that the order passed by Ld CIT(E) is incorrect and illegal both on facts and on law and the same be deleted.*

2. *Your Appellant submits that Ld CIT(E) has wrongly interpreted various clauses of the Appellant Trust Deed. The Ld CIT(E) has misconstrued the Trust's objectives as being for the benefit of a specific religious community or caste namely Muslims as this community is effectively public at large. This interpretation is entirely erroneous and unjustified and the clause is of relief to all without cast of credit. The order passed by the Ld. CIT(E) is, therefore unsustainable and should be quashed.*

3. *The Ld CIT(E) erred by passing the order without properly considering the appellants submission in the Show Cause notice and falling to provide an adequate opportunity to be heard. This violation of natural justice renders the order void ab initio. It is therefore prayed that the order be annulled and the appellant's application be approved.*

4. *The order passed by the Ld. CIT(E) legally flawed and contrary to both the provisions of the law and the facts of the case. It grossly disregards and violates the precedent set by the Honourable Supreme Court in the case of **Ahmedabad Rana Caste Association v CIT (1971) 82 ITR 704**. It is therefore submitted that the same be held now.*

5. *Your appellant craves leave to add alter, and/or to amend all or any of the grounds before the final hearing of the appeal.”*

4. Shri Sunil Talati, the Id. A.R. of the assessee explained that the present application was filed on 15-02-2024 and Id. CIT(E) had required the assessee to submit certain details/documents vide notice dated 29-06-2024 which was duly complied and the details were filed on 15-07-2024. Thereafter, the Id. CIT(E) had issued a show cause notice on 25<sup>th</sup> August, 2024, for the compliance of which time period of only two days was allowed and the case was fixed for hearing on 27-08-2024. The Id. A.R. explained that due to heavy rainfall and water logging, the assessee was not in a position to make compliance on 27-08-2024 and, therefore, had made a request for adjournment. However, the Id. CIT(E) had rejected the adjournment application and passed the order on 29-08-2024 whereby the application of the assessee for approval u/s. 80G(5)(iii) was rejected. The Id. A.R. submitted that the assessee was not allowed proper opportunity of being heard and, therefore, the matter may be set aside to Id. CIT(E) with a direction to allow another opportunity of hearing to the assessee. On merits, the Id. A.R. submitted that the Id. CIT(E) had given a finding that the assessee was not engaged in any charitable activity, which was not correct. He explained that the assessee was running two schools under name Farooq-E-Azam Girls High School and Farooq-E-Azam Primary School which was in the nature of charitable activity and cannot be considered as religious activity. The Id. A.R. further submitted that the Id. CIT(E) had not considered the objects of the trust in its entirety. He explained that the Id. CIT(E) had only considered objects under serial nos. 1-6 and that the other objects at serial no. 7-13 were not at all considered. He further submitted

that other documents required regarding running of the schools also could not be produced because the assessee was not allowed proper opportunity of being heard.

5. Per contra, Shri Sudhendu Das, the Id. CIT-DR. had no objection if the matter was set aside to the file of CIT(E).

6. We have carefully considered the submissions of the assessee. It is found that the assessee had complied to the first notice of CIT(E) dated 29-06-2024 and the details and documents as called for were filed on 15-07-2024. Thereafter, the Id. CIT(E) had issued another show cause notice on 25-08-2024 to which no compliance could be made by the assessee. The Id. CIT(E) had rejected the adjournment application for the reason that the limitation for passing the order was expiring on 31-08-2024. The Id. CIT(E) was well aware of the fact that the limitation in the matter would expire on 31-08-2024. In that event, the show cause notice should have been issued by him much earlier than on 25<sup>th</sup> August, 2024 and a proper opportunity of being heard should have been allowed to the assessee. A time period of only two to three days cannot be considered as a proper and adequate opportunity for compliance by the assessee. We, therefore, agree with contention of the assessee that no proper opportunity was allowed to make compliance to the show cause notice dated 25<sup>th</sup> August 2024.

7. From the order of the Id. CIT(E), it is found that he had considered only first 6 objects of the trust. A copy of the trust deed has been brought on record from which it is found that the other objects at serial nos. 7 to 13 were

not at all considered by the Id. CIT(E). Therefore, the rejection of application by the Id. CIT(E) cannot be held to be based on proper appreciation of facts of the case. The Id. CIT(E) has also mentioned that the permission letter from appropriate authority for running the educational institutes and its affiliation to state or central education board was not furnished and, therefore, he has held that the genuineness of the activity was not established. Since the assessee was not allowed a proper opportunity of being heard and to produce the required documents, we deem it proper to set aside the matter to the file of the Id. CIT(E) with a direction to allow another opportunity of being heard to the assessee. The assessee has filed an application under Rule 29 of IT Rules with a request to admit additional evidences in respect of list of students, granted fee concession through trust operated schools etc. in respect of genuineness of the educational activities carried out by it. The assessee will be free to bring on record these additional evidences before the Id. CIT(E) in the course of set aside proceeding.

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

Order pronounced in the open court on 18-12-2024

**Sd/-**  
**(TR SENTHIL KUMAR)**  
**JUDICIAL MEMBER**  
**Ahmedabad : Dated 18/12/2024**

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
**ACCOUNTANT 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