

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.275/Nag./2024
(Assessment Year : N.A.)

Shree Hanuman Mandir Sewa Samiti
1, Civil Lines, Gondia Bazar
Gondia 441 601 PAN – AAZTS9221N

..... Appellant

v/s

Commissioner of Income Tax
Exemption, Pune

..... Respondent

Assessee by : Shri Kapil Bahari
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 16/12/2024

Date of Order – 26/12/2024

ORDER

PER K.M. ROY, A.M.

The present appeal has been filed by the assessee challenging the impugned order dated 16/03/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”].

2. In its appeal, the assessee has raised following grounds:-

“1. That the order passed rejecting the registration u/s 12A and cancellation of provisional registration u/s 12A r.w.s. 12A is bad in law and all facts.

2. That on the facts and in the circumstances of the case the appellant is entitled to registration under section 12A.

3. That the learned CIT, Exemption failed to appreciate the activities of the appellant which are charitable in nature and denied registration under section 12A.

4. *That the rejection of the application of the appellant is not based on proper reasoning or proper appreciation of facts leading to miscarriage of justice and needs to be reversed.*

5. *That on examining the genuineness of activities if the authority is not satisfied the same need to be communicated to the appellant for clarification and failure thereof would mean denial of reasonable opportunity of being heard. As such, in the facts and circumstances of the case, the order is bad as reasonable opportunity was not given to the appellant.*

6. *That whether in case the CIT, Exemption was not satisfied about evidences produced before it, it was necessary to seek clarification from the appellant and without seeking clarification the rejection of the evidences without affording an opportunity of explaining would be unjustified and bad in law and on facts.*

7. *That where the activities carried out by the institution are benefitting the community in general and the society at large without any discrimination as to caste or religion, and without any commercial objective, the same should be considered for charitable purpose and not religious purpose and in the facts and circumstances of the case, the appellant is entitled to registration as a charitable institution under section 12A.*

8. *That in the facts and circumstances of the case, the activities of the appellant are charitable in nature and genuine and as such entitled to registration under section 12A which needs to be granted.*

9. *Any other ground arising out of the above order which may be raised at any time hereafter for which the appellant craves leave."*

3. The point of dispute is, whether or not the rejection under section 12AB of the Income Tax Act, 1961 ("*the Act*") and cancellation of provision registration under section 12A(i)(ac)(vi) of the Act is valid, the factual contours are narrated below:–

"1. The appellant is a Society registered under the Society Registration Act, 1860 and also registered under the Mumbai Public Trust Registration Act, 1950 on 26th March, 2009 and is functioning since then.

2. The Society was formed with the following objects:–

a) To celebrate public festivals.

b) To create social awareness through Hanuman Utsav.

Opening charitable clinics, organising blood donation camps for pediatrics.

Organizing promotion and dissemination of sports through the board.

e) To curb unethical practices in the society and implement superstition, eradication programmes.

f) Celebrating and participating in other public celebrations.

g) To raise the moral of the outstanding sportsman and students through the festival, to organize various competitions and to distribute awards to the students.

h) Carrying out tree plantation programs, helping the poor, distributing fruits to the sick and donating blood.

i) To implement various welfare schemes of state, government and central government.

3. The trust made an application for the first time for registration u/s 12A and provisional registration was granted in Form 10AC on 24-05-2022 which was valid till AY 2025-26.

4. The appellant then filed application in Form 10AB under sub clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 on 21-09-2023.

5. With a view to verify the genuineness of activities of the appellant, proceedings were initiated and notice was issued calling for information and clarifications."

4. The rejection was made on the following lines, vide order dated 16/03/2024:-

"6 The assessee furnished compliance to the said notice on 27/02/2024. The assessee trust furnished various bills of hardware and other material used for maintenance of the temple. It has, however, not furnished any justification on observation that entire expenditure has been made by the trust only on religious activities though the trust has been mentioned as 'Religious cum Charitable Trust' in form 10AB. The only expenditure shown on 'other charitable objects' was Rs. 1.05 Lakhs incurred in FY 2021-22. The assessee was requested to furnish details of the same and evidences. In compliance, the assessee trust has furnished few bills. However, on perusal of the same, they are not found to be genuine. The trust has furnished three bills of one Agarwal Xerox & Binding Works. As mentioned in the bills, it is engaged in binding, xerox and printing. However, in the bills produced, the material mentioned is sell of note books, medical camp pamphlets and stationery and files. Said firm is not engaged in selling activity as no such activity is mentioned in bills. The trust has further furnished bills of shoes. However, even if it is assumed that the trust has carried out some activity like distributing stationery, note books, school uniforms to students or shoes, no details of the same such as date of activity, number of students, how they were identified, schools they study in etc has been furnished by the trust. No supporting evidences in the form of school appreciation letter, photographs, cuttings etc has been furnished. The trust has also furnished bill of mithai

boxes. However, the concern issuing bill is engaged in box manufacturing and packaging. The trust has not clarified if the bill relates to purchase of mithai or the purpose for which the boxes were purchased.

7. Considering the above, the undersigned is not satisfied about charitable nature and the genuineness of activities of the assessee and compliance of requirements of any other law for the time being in force by the assessee as are material for the purpose of achieving its objects."

5. Before us, the learned Authorised Representative appearing for the assessee furnished a detailed Paper Book containing following documents:–

"Document description

- i) *Objects of the Trust;*
- ii) *Statement of activities carried out by the Trust;*
- iii) *1st Written submission filed on 24-11-2023;*
- iv) *2nd Written submission filed on 27-02-2024;*
- v) *Photographs of Food Distribution;*
- vi) *Some Invoices of Grains (Kirana) purchase;*
- vii) *Photographs of Medical Camp;*
- viii) *Photograph of Note Books Distribution;*
- ix) *Invoices of School Books and Stationery purchase;*
- x) *Photograph of School Uniforms Distribution;*
- xi) *Invoices of School Uniforms purchase;*
- xii) *Photographs of School Shoes Distribution*
- xiii) *Invoice of Shoes purchased.*

6. In our considered opinion, the rejection is not sustainable as the learned CIT(E) has made half backed inquiry and has raised only suspicions on documentation without making any meaningful investigation. He has not clearly established as the objects are not charitable or activities are not genuine. Merely raising some suspicion on the details, voluminous submis–

sions without unravelling any truth is not sufficient to cancel provisions registration and deny permanent registration. In view of elaborate documentary evidences adduced by the learned Counsel for the assessee, it is established that the assessee is entitled for registration under section 12AB of the Act. We direct learned CIT(A) to grant registration forthwith under section 12AB of the Act.

7. In the result, appeal filed by the assessee is allowed.

Pronounced in open Court on 26/12/2024

V. DURGA RAO
JUDICIAL MEMBER

K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 26/12/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur