

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.1123 & 1124/SRT/2024**

(Assessment Years: 2021-22)

(Physical Hearing)

Surat Diamond Cutting & Polishing Cluster SPV Trust, E-103, Jaldarshan Flats, Singanpur Road, Surat – 395004, Gujarat	Vs.	The CIT (Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAVTS3503M		
(Appellant)		(Respondent)

आयकर अपील सं./ITA Nos.1125 & 1126/SRT/2024

(Assessment Years: 2024-25)

(Physical Hearing)

Bavangam Navgam Bhavsar Care Charitable Trust, Shop No.02, Plot No.220, Vinayak Nagar, 120 FT Bamroli Road, Udhana, Surat - 394210	Vs.	The CIT (Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAFTB3929A		
(Appellant)		(Respondent)

आयकर अपील सं./ITA Nos.1127 & 1128/SRT/2024

(Assessment Years: 2024-25)

(Physical Hearing)

Shree Aadinath Educational & Charitable Trust, C-401, Icon Heights, BRTS Road, Puna, Saroli, Surat – 395010.	Vs.	The CIT (Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABITS4657C		
(Appellant)		(Respondent)

Appellant by	Shri Sapnesh Sheth, CA
Respondent by	Shri Ravi Kant Gupta, CIT-DR
Date of Hearing	02/01/2025
Date of Pronouncement	02/01/2025

आदेश / ORDER

PER BENCH:

These six appeals emanate from the orders dated 22.10.2024, passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad [in short, 'CIT(E)'], wherein the CIT(E) rejected assessee's application for registration of trust u/s 12AB of the Income-tax Act (in short, 'the Act') and also cancelled the provisional registration u/s 80G(5) of the Act. With consent of both parties, all appeals are clubbed and heard together and decided by a common order for the sake of convenience and brevity. The case of Surat Diamond Cutting and Polishing Cluster SVP Trust in ITA No. 1124/SRT/2024 is taken as the "lead case".

2. The facts of the case in brief are that the assessee filed an application for registration/incorporation in Form No.10AB u/s 12A(1)(ac)(iii) of the Act. The assessee-trust had earlier been granted order for provisional approval. In respect of the application filed by the assessee-trust in Form No.10AB, the assessee-trust was asked by CIT(E) to file details/documents vide notice dated 23.07.2024 and 23.08.2024. The applicant did not file any submission nor sought any adjournment in response to the said notices. In absence of the requisite details, the requirements of Rule 17A(2) of Income-tax Rule, 1972 were not compiled with. Hence, the CIT(E) relied on the decision of Hon'ble Supreme Court in case of CIT, Ujjain vs. Dawoodi Bohara Jamat, Civil Appeal No.2492 of 2014 and M/s New Nobel Educational Society, in Civil

Appeal No. 3795 of 2014 and observed that the applicant failed to file documentary evidences to enable him to satisfy about (i) genuineness of 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 and (iii) that other laws material for the purpose of achieving objects are complied with. Hence, the application filed in Form No.10AB was rejected and the provisional registration was also cancelled.

3. Aggrieved by the order of CIT(E), the assessee filed present appeal before the Tribunal. The learned Authorized Representative (Id. AR) submitted that order passed by the CIT(E) is an *ex parte* order, as the assessee could not file relevant documents and evidences before the CIT(E). He submitted that only two opportunities were granted and due to circumstances beyond control, assessee could not file the necessary details. He argued that principles of natural justice has not been adhered to. The Id. AR submitted that the assessee is ready to submit relevant documents and details before the CIT(E) and hence he requested that the matter may be remitted back to the file of the CIT(E) for fresh adjudication.

4. On the other hand, the learned Commissioner of Income-tax – Departmental Representative (Id. CIT-DR) for the revenue submitted that reasonable cost may be imposed, if the matter is remitted to the file of CIT(E).

5. We have heard both the parties and perused the record. We find that the CIT(E) has decided the matter *ex parte* due to non-compliance by the applicant to the two notices issued by him. There was also no adjournment request by the assessee. The Id. AR has contended that the assessee-trust is ready to submit all the details and evidences needed by the CIT(E). He requested that in the interest of justice, one more opportunity may be given to the assessee to plead its case, which is strong on merits. We are of the view that one more opportunity should be given to the assessee to file requisite documents and evidences before the CIT(E) and to plead its case before him. It is a settled law that the principles of natural justice require the affected party to be granted sufficient opportunity of being heard to contest his case. Therefore, in the interest of justice, we restore the matter to the file of the CIT(E) subject to payment of cost of **Rs.10,000/- (Rupees ten thousand only)** by the assessee to the credit of the "Gujarat High Court Legal Aid Authority" within 2 weeks from receipt of this order. Subject to payment of above cost, we set aside the order of CIT(E) and remit the matter to the file of CIT(E) with a direction to pass fresh order in accordance with law after granting adequate opportunity of hearing to the assessee. The assessee is directed to be more vigilant and diligent and to furnish all the details and explanations as needed by the CIT(E) by not seeking adjournment without any valid reasons. With these directions, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

ITA No.1123/SRT/2024 (AY.2021-22):

7. Since the assessee did not file the requisite details, despite two notices issued by the CIT(E), the application filed in Form No.10AB for approval u/s 80G(5)(iii) of the Act was rejected and the provisional approval was also cancelled. Facts of the case are similar and the reasons given by the CIT(E) for rejecting the application are similar. We have already set aside the case of the appellant to the file of CIT(E) in respect of rejection of application for registration of the assessee-trust in ITA No.1124/SRT/2024 decided above. Following the same reason, this case is also remitted to the file of CIT(E) for fresh adjudication after granting reasonable opportunity of being heard to the assessee.

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

ITA Nos.1125 & 1126/SRT/2024 (AY.2024-25):

9. In these appeals, the CIT(E) has issued two notices of hearing which were not complied with. The assessee-trust had also not requested for adjournment. Hence, the application for registration filed in Form No.10AB u/s 12A(1)(ac)(iii) and the application filed in Form No.10AB for approval u/s 80G(5)(iii) of the Act were rejected and the provisional approval was also cancelled. Facts of the case and the reasons given by the CIT(E) for rejecting the application are similar as in ITA No.1124/SRT/2024, decided above. We have already set aside the above case to the file of CIT(E) in respect of

rejection of application for registration of the assessee-trust in ITA No.1124/SRT/2024 decided above. Following the same reason, these two appeals are also remitted to the file of CIT(E) subject to the cost of **Rs.10,000/- (Rupees ten thousand only)** to the credit of “Gujarat High Court Legal Aid Authority” within 2 weeks from receipt of this order. Subject to the payment of the above cost, we set aside the orders of CIT(E) and remit the matter to the file of CIT(E) for fresh adjudication after granting reasonable opportunity of being heard to the assessee. For the statistical purposes, these appeals are allowed for statistical purposes.

10. In the result, these appeals of the assessee are allowed for statistical purpose.

ITA Nos.1127 & 1128/SRT/2024 (AY.2024-25):

11. In these appeals, the CIT(E) has issued two notices of hearing which were not complied with. The assessee-trust had also not requested for adjournment. Hence, the application for registration filed in Form No.10AB u/s 12A(1)(ac)(iii) and the application filed in Form No.10AB for approval u/s 80G(5)(iii) of the Act were rejected and the provisional approval was also cancelled. Facts of the cases and the reasons given by the CIT(E) for rejecting the applications are similar as in ITA No.1124/SRT/2024, decided above. We have already set aside the above case to the file of CIT(E) in respect of rejection of application for registration of the assessee-trust in ITA No.1124/SRT/2024 decided above. Following the same reason, these two

apepals are also remitted to the file of CIT(E) subject to the cost of **Rs.10,000/- (Rupees ten thousand only)** to the credit of “Gujarat High Court Legal Aid Authority” within 2 weeks from receipt of this order. Subject to the payment of the above cost, we set aside the orders of CIT(E) and remit the matter to the file of CIT(E) for fresh adjudication after granting reasonable opportunity of being heard to the assessee. For the statistical purposes, these appeals are allowed for statistical purposes.

12. In the result, these appeals of the assessee are allowed for statistical purpose.

Order pronounced on 02/01/2025 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 02/01/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat