

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.593/SRT/2024**

**(Physical Hearing)**

The Sursez Unit Holders Association, 33-35, Sahjanand Tech. P. Ltd., Surat SEZ, Surat – 394230.	<b>Vs.</b>	The CIT(Exemption), Ahmedabad
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AACTT0367M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Suresh K. Kabra, CA
<b>Respondent by</b>	Shri Ravi Kant Gupta, CIT(DR)
<b>Date of Hearing</b>	17/12/2024
<b>Date of Pronouncement</b>	15/01/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal emanates from the order dated 30.03.2024 passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad [in short, “the CIT(E)”], wherein Id. CIT(E) rejected assessee’s application filed in Form No.10AB u/s 12AB of the Income-tax Act, 1961 (in short, ‘the Act’) on 18.09.2023 and the provisional registration was also cancelled.

2. The grounds of appeal raised by the assessee are as follows:

*“1. The Ld CIT(E) was not just and proper on the facts of the case and in law in rejecting the application of the Trust for registration u/s 12A(1)(ac)(iii).*

**2. PRAYER**

*2.1 The REJECTION order may be recalled and registration u/s 12A(1)(ac)(iii) may be directed to be allowed to the appellant.*

*2.2 Personal hearing may be granted.*

*2.3 Any other relief that your honours may deem fit may be granted.*

*3. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeal."*

3. The fact 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 on 18.09.2023. The assessee-trust had been granted order for provisional approval as per Form No.10AC on 16.03.2022 u/s 12A(1)(ac)(vi) of the Act for the period from AY.2022-23 to AY.2024-25. In respect of the application filed by the assessee-trust in Form No.10AB, the assessee-trust was asked to file details and documents vide notice dated 08.11.2023 and 07.12.2023. Against the said notices, the assessee has submitted certain details on 29.12.2023 and 05.01.2024. The CIT(E) observed that the expenditure reported in the audited accounts are not in accordance with the objects of the trust. Hence, the CIT(E) has issued a show cause notice dated 18.03.2024, which is extracted at para 6.2 (pages 6 to 7) of the CIT(E) order. The CIT(E) asked assessee as to why the application filed in Form 10AB u/s 12A(ac)(iii) should not be rejected. He further requested to submit details/ documents / clarification before 21.03.2024. In response to the notice, the assessee submitted its reply on 21.03.2024, which is reproduced at para 6.3 (pages 7 to 8) of the CIT(E) order. As per reply dated 01.01.2024, the association also conducts cricket tournament every year to enhance awareness towards sports activities amongst the youths. However, on being asked how the said tournament is in accordance with the objects of the assessee-trust, it was

stated that “the object behind the organization of the tournament is to raise funds for the activities of the association”. The CIT(E) perused Memorandum of Association (MoA) and Articles of Associations (AoA) of the Trust and observed that there is no mention of activity to be carried out for raising fund such as organizing cricket tournament etc. He concluded that the reply was an “afterthought of the applicant to term on object activity organizing cricket tournament as fund activities to hide the fact that the activities are not in consonance with objective/objects of the association”. The association has not done any other charitable activities, which was admitted by the applicant itself which is extracted at para 7.1 of the order. The claim of the applicant that excess receipt over tournament expenditure is spent for the basic objects of the association was also not found to be correct. Out of surplus of Rs.1,86,768/-, expenditure of Rs.31,910/- only was incurred. He also found that the organizing cricket tournament was not even the ancillary activity. The CIT(E) observed that before granting registration, the CIT(E) has to satisfy himself about the genuineness of the activities of the Trust and he has to verify that activities of the trust or institution are in consonance with the objects of the Trust. Further, he has to ensure that other laws material for the purpose of achieving objects are complied with. He has relied on the decisions of Hon’ble Supreme Court in cases of CIT vs. Dawoodi Bohara Jamat, in Civil Appeal No.2492 of 2014 and M/s New Educational Society, in Civil Appeal No.3795 of 2014. The CIT(E) rejected the application filed in

Form 10AB u/s 12A(1)(ac)(iii) of the Act and also cancelled the provisional registration.

4. Aggrieved by the order of CIT(E), the assessee filed an appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted copy of MoA and AoA and relied on various decisions. He submitted that cricket tournament is organized every year and the surplus of receipt over expenditure is spent on objects of Trust. He requested that the case may be set aside to CIT(E) for verification and fresh decision. The Id. AR relied upon the following decisions (i) CIT vs. Babu Ram Education Society, 96 taxmann.com 606 (Allahabad), (ii) Fateh Chand Trust & College Committee vs. CIT, 101 taxmann.com 364 (Agra – Trib.), (iii) Bhojalram Leuva Patel Seva Samaj Trust vs. CIT, 162 taxmann.com 270 (Ahd – Trib.), (iv) Swayam Siddha Foundation Society vs. CIT, 159 taxmann.com 1634 (Raipur – Trib.), (v) George Institute & Global Health vs. DIT(E), 49 taxmann.com 248 (Hyd – Trib.) , (vi) St. Don Bosco Educational Society vs. CIT, 84 TTJ 505 (Lucknow) and (vii) Shah Gulabchand Shree Parshwanath Trust vs. CIT(E), ITA No.150/SRT/2024, dated 26.07.2024.

5. On the other hand, the learned Commissioner of Income-tax - Departmental Representative (Id. CIT-DR) for the revenue supported the order of CIT(E). He submitted that the CIT(E) has clearly found that organizing cricket tournament is not the object of the Trust. He also submitted that assessee was changing his stand on different occasions. Expenditure of

Rs.31,910/- only was spent by the assessee-trust out of the surplus of Rs.1,86,768/- such expenses are for audit fees, salary etc. and hardly anything was spent on objects of the Trust. He submitted that the decisions relied upon by the Id. AR are not at all applicable to the facts of the present case.

6. We have head both the parties and perused the materials available on record. We have also deliberated on the decision relied upon by both sides. The CIT(E) observed that the assessee failed to file documentary evidence to enable him to satisfy about the genuineness of the activities of the trust and whether the activities are in consonance with the objects of the trust. The Id. AR submitted that object behind the organization of the tournament is to raise funds for the activities of the association. We have carefully perused the MoA submitted by the Id. AR. It is seen therefrom that the aims and objectives of the assessee-Association are: (i) advances in the fields of industrial science, mechanical science, instrumentation and design, discoveries and newly introduced tools, techniques, machines etc. (ii) to organize activities to make the knowledge of industrial legal education available to the public, (iii) to promote afforestation for the preservation of the environment, accelerate tree plantation and to organize guiding for the preservation of the environment, (iv) to carry out the activities for the promotion and dissemination of literature related to cottage industry, home industry and other industries, (v) to help victims of natural calamities like rail,

fire, earthquake, drought, epidemic etc. without discrimination of caste, gender, religious and creed, (vi) to organize medical activities like blood donation camp, disease diagnosis camp, physical therapy etc., (vii) to carry out research and verification for the purposes of association and to collect statistics and other useful information and disseminate its report to member and issue magazine for the benefit of members. It is clear from the above that organizing cricket tournament was not one of the objectives or aims of the Association. From the details submitted by the assessee before the CIT(E) and the Tribunal, the genuineness of the activities of the Trust as well as the fact that the activities are in consonance with the objects of the Trust or Institution are not established. The CIT(E) has relied on the decision in case of Dawoodi Bohara Jamat (supra) and new Nobel Education Society (supra). As per the said decisions, the Commissioner can call for documents and information and conduct enquiry to satisfy himself about genuineness of the institution and authenticity of activities of the institution. If he is not satisfied of the aforesaid, the application can be declined. The Commissioner is also not constrained from examining accounts and other related documents to see the pattern of income and expenditure. The ratio of the above decisions of the Hon'ble Supreme Court relied upon by the CIT(E) is applicable to the facts of the case. The Hon'ble Kerala High Court in case of Self Employers Service Society vs. CIT, 247 ITR 18 (Kerala) held that since the petitioner society had not done any charitable work during the relevant period and its

activities were only for purpose of generating income for its member, rejection of application could hardly be termed as illegal or arbitrary. On the other hand, the decisions relied upon by the Id. AR are not directly on the issue. It has not been explained as to how the facts of the cases relied upon are similar to the facts the present appeal. There is specific finding by the CIT(E) that activities of the Trust are not genuine as they are not in consonance with the objects of the Trust. The appellant has not been able to rebut the said finding of the CIT(E). In view of the above and respectfully following the decisions of Hon'ble Supreme Court cited supra, we confirm the order of the CIT(E) and dismiss the appeal of assessee.

7. In the result, appeal of the assessee is dismissed.

Order is pronounced on 15/01/2025 in the open court.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat

दिनांक/ Date: 15/01/2025

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

By Order

**// TRUE COPY //**

Assistant Registrar/Sr. PS/PS  
ITAT, Surat