

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

ITA No. 589/Srt/2024 (Assessment Year: N/A)
(Physical hearing)

Rotary Club of Gandevi, Dhamdacha, Dena Bank, Amalsad, Navsari-396310. PAN No. AACTR 0998 J	Vs.	C.I.T(Exemptions), Ahmedabad
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Darshit J. Naik, CA
Department represented by	Shri Ravi Kant Gupta, CIT-DR
Date of Institution of Appeal	20/05/2024
Date of hearing	17/12/2024
Date of pronouncement	21/01/2025

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Exemptions), Ahmedabad (in short, the Id. CIT(E)) dated 29/03/2024 in rejecting the application for registration of Trust under Section 12AB of the Income Tax Act, 1961 (in short, the Act). Following grounds of appeal have been raised by the assessee:

- “1. The learned Commissioner of Income Tax erred in rejecting the application for registration under Section 12A made by the Appellant.*
- 2. The learned Commissioner of Income Tax erred in not treating the application filed as an application u/s 12A(1)(ac)(i) despite specific requests of the Appellant.*
- 3. The learned Commissioner erred in holding that the Appellant is formed for the welfare of its members, which is contrary to the facts.*
- 4. Having regard to the facts and circumstances of the case and the provisions of law, the appellant submits the Commissioner of Income tax be directed to grant the Certificate u/s 12A to the appellant.*

The Appellant craves leave to add, to alter or amend the above grounds of appeal as and when advised.”

2. Rival submissions of both the parties have been heard and record perused.

At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that the application of assessee was rejected in a mechanical way. The assessee was not given fair and reasonable opportunity. In response to show cause notice dated 26/02/2024, the assessee asked for adjournment vide application dated 29/02/2024. No fresh notice was served upon the assessee. The Id. CIT(A) basically rejected the application of assessee for registration of assessee- trust under section 12AB on two grounds firstly, that the assessee filed application under Section 12A(1)(ac)(iii) instead of Section 12A(1)(ac)(i) and secondly the Trust is set up for welfare of its member only. So far as wrong limb is concerned, the Id AR of the assessee submits that while filing application on ITBA portal, the applicant/ assessee inadvertently mentioned incorrect sub-clause of sub-Section (1) of Section 12A. On such issues, this Bench has taken a view that mentioning of wrong limb is not fatal in *Dinshaw Daboo Charity Trust Vs CIT(E)* in ITA No. 47/Srt/2024 order dated 20/03/2024. And on secondly ground of rejection that the Trust is set up for welfare of its member only, the Id. AR of the assessee submits that objects as a whole has to be seen and not in isolation of particular clauses of their objects as held by this Bench in the case of *Sunni Muslim Jamat Aamena Madressa Ebdatgah Waqf Committee Vs. CIT(E)* in ITA No. 705/Srt/2023 order dated 26/03/2024. The Id. AR of the assessee further reiterated that he was not allowed reasonable opportunity, therefore, the matter may be restored back to the file of Id.

CIT(E) to consider the matter afresh with the liberty to assessee to file its submission.

3. On the other hand, the learned Commissioner of Income Tax-Departmental Representative (Id. CIT-DR) for the revenue submits that the assessee was given sufficient opportunity as has been mentioned in the order itself. The Id. CIT(E) has passed a very reasonable and detail order.
4. We have considered the rival submissions of both the parties and have gone through the orders of the lower authorities carefully. we have also deliberated on the case laws relied by Id AR of the assessee. We find that the assessee in response to the show cause notice dated 26.02.2024 sought adjournment for fifteen days by filing application dated 29/02/2024. No fresh notice was served upon the assessee but the Id. CIT(E) rejected the application vide his order dated 29.03.2024. On careful perusal of order, we find that the Id. CIT(E) while rejecting the application of assessee confined his finding mainly on two issues firstly, that the assessee has mentioned wrong provision and secondly the Trust is set up for welfare of its members only. Considering the fact that the Id. CIT(E) has passed order in absence of proper explanation from assessee, therefore, we deem it appropriate to restore the matter back to the file of Id. CIT(E) to reconsider the application of assessee afresh and in accordance with law. Needless to direct that before passing the order on merit, the Id. CIT(E) shall grant reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and in making proper compliance and not to make any default in responding the

notices issued by the Id. CIT(E). With this direction, the grounds of appeal raised by the assessee are allowed for statistical purposes.

5. In the result, this appeal of assessee is allowed for statistical purposes only.

Order pronounced in the open court on 21st January, 2025.

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat, Dated: 21/01/2025

**Ranjan*

Copy to:

1. Assessee –
2. Revenue -
3. CIT
4. DR
5. Guard File

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

By order

Sr. Private Secretary, ITAT, Surat