



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC), RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No.92/RJT/2024

Assessment Year: (NA)
(Hybrid Hearing)

Jaamnagar Tax Consultants Association Dholakia and Dholakia 1 -2 Shivhari Gate, Khambhaliya Gate S.O., Jamnagar Gujarat - 361001	Vs.	The Commissioner Of Income Tax (Exemption) Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAFAJ9552J		
(Appellant)		(Respondent)

Appellant by	Shri Dipak Varia, Ld. A.R.
Respondent by	Shri Darsi Suman Ratnam, Ld. CIT(DR)
Date of Hearing	30/10/2024
Date of Pronouncement	23/01/2025

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax(Exemption), National Faceless Appeal Centre, Delhi [in short “the Ld. CIT(A)/NFAC”], dated 27.09.2023, wherein Learned CIT (Exemption) rejected the assessee’s application in form No. 10AB, under section 12A(1)(ac)(iii) of the Act, and also rejected the provisional registration, of assessee, holding that assessee has not complied with the requirement of Rule 17A (2) of the Income Tax Rules and the objects of the assessee, are not found to be charitable in nature.



2. The appeal filed by the assessee, is barred by limitation by 82 days. The assessee has moved a petition requesting the Bench to condone the delay. The Learned Counsel for the assessee, explained the delay stating that due to ill health of the then President and his family Members, as well as that of Secretary, the appeal could not be filed within prescribed time limit. Therefore, Id. Counsel prayed the Bench that delay in filing the appeal may be condoned and appeal of the assessee may be admitted for hearing.

3. On the other hand, the Id. DR for the Revenue opposed the prayer of the assessee to condone the delay and stated that delay should not be condoned merely because the President of the trust and his family members were not feeling well and suffering for the disease.

4. I have heard both the parties on this preliminary issue and noted that due to ill health of the then President and his family Members, as well as that of Secretary, the appeal could not be filed within prescribed time limit, and there is delay of 82 days. I am of the view that assessee has explained the sufficient cause for the delay. The words "**sufficient cause**", as appearing in Section 5 of Limitation Act, should receive a liberal construction when the, delay is not on account of any dilatory tactics, want of bona fides, **deliberate inaction or negligence on the part of the applicant**, in order to advance substantial justice. The words "sufficient cause" for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case. The decisive factor in condonation of delay is not the length of delay but sufficiency of a satisfactory explanation. I note that the



reasons given in the affidavit for condonation of delay were convincing and these reasons would constitute reasonable and sufficient cause for the delay in filing this appeal. Having heard both the parties and after having gone through the affidavit as well the delay condonation, application, I am of the considered opinion that in the interest of justice, the delay deserves to be condoned. I, accordingly, condone the delay.

5. The Ld. Counsel by the assessee, argued that aggrieved, by the order of the Ld. CIT(Exemption), the assessee is in appeal before this Tribunal. The Counsel stated the facts of the case that Ld. CIT (Exemption), has rejected the assessee's application solely on the reason that assessee is required to file self-certified copy of registration with registrar of companies, or registrar of firms or Society or registrar of public trust, as the case may be, however, the assessee failed to do so. In this respect Ld. Counsel submitted that assessee trust is not required to get registered with registrar of companies or registrar of firms etc. The learned Counsel also submitted that assessee- trust is not only working for its members, but working for members in general public also, therefore, trust deserves for registration. Besides, the Ld. CIT(E) did not consider the entire documents and evidences, and the case law cited by the assessee, therefore, issue should be remitted back to the file of the Ld. CIT(E) with the direction to consider enter documents and evidences, and the case law cited by the assessee.

6. On the other hand, Ld DR for Revenue submitted that Rule 17A(2) of the Income Tax Rules, among others, specifically requires that the applicants to file self-certified copy of registration with registrar of companies or Registrar of firms and Societies or Registrar of public trust, as the case may be, before the Ld. CIT(E). Rather, the applicant vide its letter dated 17.09.2023, has stated before Ld CIT(E) that **“association is not liable for registration under any of the**



said Laws, hence not applicable”. Therefore, it is evident that the applicant has not complied with the rules 17(2) of Income Tax Rules, Further, the details/documents submitted by the applicant before Id CIT(E) clearly show that the association is formed with motive of organizing seminars and lectures on direct and indirect taxes and increase the compliance of the law with a motive to do activities for the welfare of its members only. Therefore, objects of this association is restricted only for welfare to its members. Therefore, the Ld. DR for revenue contended that assessee`s appeal should be dismissed.

7. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(E) and other materials brought on record. The Id Counsel for the assessee submitted before me the following written submission, along with required documents and evidences:

1.The appellat association is of the view that looking to the objects of the Association and its activities mainly relating to awareness of Tax Literacy amongst Members and General Public, it is not required to get registration under any State Laws relating to the Charitable Activities.

2.Moreover, there are number of practical difficulties for registration under the related state law authorities like. 1. The registration would require the association to change the constitution in and name. 2. It may also require quite a few changes in the bye law 3.the PAN number of the association shall also change. 4. Thus, practically, the whole identity of more than 5 decades old association shall change.

In view of the above practical difficulties, the Association is of the view that it is at present, not practically viable to get the registration under any state laws.

3. Your Honours, on kind perusal of our submission dated 02.09.2024, will appreciate that looking to the activities of the association, the association qualified to get registration under section 12A of the Income Tax Act, 1961.



4. Your Honours, kind attention is invited on the Decision of Hon. High Court of Madhya Pradesh in the case of CIT v. Maharshi World Peace Trust – ITA No. 61 of 2019. Hon. Madhya Pradesh High Court has observed that there is no Mandate for a trust or Institution seeking registration U/s. 12AA of the I T Act, 1961 is required to get registration under the state Laws. Relevant head note of the case is re-produced herein below.

“Sec. 12AA & 260A of Income Tax Act, 1961 – Charitable Purpose – Revenue filed Tax Appeal against the order of Tribunal in holding that a public charitable trust does not require to comply with local law and MP requiring registration under MP public Trust Act, 1951. In the case of the assessee, the registration was applied of under section 12AA(1)(b)(i) of the Act and the provisions under section 12AA(1) of the Act also refers to the “trust or institution” and there is no mandate under section 12AA of the Act that the application seeking exemption is required to be applied only by a registered trust or institution under the local laws i.e., MP public Trust Act, 1951. Tax Appeal of the revenue dismissed holding that “ in the absence of any provision requiring registration as a public charitable Trust before applying for registration under section 12AA(1) of the Act, the findings arrived at by the learned Tribunal cannot be faulted and said to be illegal or perverse in any manner.”

5. In view of the above and our earlier detailed submission made on 02.09.2024, your Honours will appreciate that the objects and activities carried out by the Association are purely charitable in nature for Advancement of any other object of general public utility as defined in s. 2(15) of the I. T. Act, 1961.

8. I have gone through the above written submission of the assessee along with the documents and evidences submitted before me. I am of the view that Id CIT (E) should re-look the documents and evidences of the assessee, in the light of the above written submission of the assessee, and if the assessee deserve for registration, the same should be granted to the assessee in accordance with law. For the reasons given above, I am of the view that the order of the CIT(E) on this issue requires to be set aside and the issue needs to be looked into afresh by the Ld CIT(E) in the light of the observations, as set out above. I hold and direct accordingly. The Id CIT(E) will afford opportunity of being heard to the assessee before deciding the issue. The assessee will also be at liberty to let in further evidence to substantiate it’s case. For statistical purpose, the appeal of the assessee is treated as allowed.



9. In the result, this appeal of the assessee is allowed for statistical purposes, in above terms.

Order is pronounced on 23 /01/2025 in the open court.

**Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 23/01 /2025

Copy of the Order forwarded to:

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot