



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 43 & 44/RJT/2024

(Assessment Year: NA)

(Hybrid Hearing)

Satvara Gnati Samaj Seva Mandal. Shree Ashapura Nivas, Sundarvan Society, Shakat Sanala, Morbi.	Vs.	CIT(Exemption), Ahmedabad.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABBT5898L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Darsak Thakkar, Ld. AR
Respondent by	Shri Sanjay Punglia, CIT(DR)
Date of Hearing	30/01/2025
Date of Pronouncement	05/02/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeals filed by the assessee, are directed against the order passed by the Learned Commissioner of Income Tax(Exemption), [in short “the Ld. CIT(E)”], Ahmedabad wherein Ld. CIT(E) rejected assessee’s application filed in Form No.10AB u/s 12A(1)(ac)(iii) of the Act on 30.05.2023 and provisional registration of the trust was also cancelled.

2. Grounds of appeal raised by the assessee in ITA-43/RJT/2024 are as under:

- 1.) *The grounds of appeal mentioned hereunder are without prejudice to one another.*



- 2.) *That the learned Commissioner of Income Tax (Exemption), Ahmedabad has erred in law and on facts in refusing to grant registration u/s 12AB of the Income Tax Act, 1961.*
- 3.) *Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing.*

3. Facts of the cases are that assessee trust is running since long time. Assessee applied for the registration of Trust in Form No.10AB before the Ld. CIT(E). The Ld. CIT(E) issued the notice on 17/02/2023 through e-mail to furnish the details of the activities of the trust and other supporting documents. In reply assessee did not furnish any details. Therefore, another notice was issued on 25/03/2023 and final opportunity was given by issuing the notice on 03/05/2023, however, assessee could not reply in response to the notices. Therefore, Ld. CIT(E) proceeded on objects of the trust. It was noted that assessee trust is a charitable trust but it was to benefit of a particular religious community of caste "Satvara Society". The provision of section 13(1)(b) of the Act is applicable to a charitable trust and has been settled by the Hon'ble Supreme Court in the case of CIT Vs. Palghat Shadi Mahal Trust (120 Taxmann.com 889), wherein the Hon'ble Apex Court held that where the benefit is available to Muslims from all over the world, none of whom except in Kerala are backward classes, the provision of section 13(1)(b) would be attracted and therefore the trust is not entitled for exemption u/s 11 of the Act. Even some courts had held that in case of composite trust/institution, i.e. charitable cum religious, the provision of section 13(1)(b) of the Act is not applicable. However, the said controversy was resolved by the Hon'ble Supreme Court in the case of CIT Vs. Dawoodi Bohara Jamat (43 Taxmann.com 243), wherein, the Hon'ble Apex Court held that the provision of section 13(1)(b) of the Act is applicable even to a composite trust/institution. Considering, the above facts trust is a charitable in nature an is restricted to benefit particular community or caste "Satvara Society".



4. In view of the above, the Ld. CIT(E) rejected the application of assessee filed in Form No. 10AB for the registration u/s 12AB of the Act and Ld. CIT(E) also rejected the application in Form 10AB u/s 80G(5) of the Act as non maintainable.

5. Aggrieved by the orders of the Ld. CIT(E) dated 30/05/2023, the assessee is in appeal before us.

6. The Ld. Counsel also drew our attention to the provision of section 13 Explanation-2 which is reproduced as follows:

Explanation 2.-A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (1).

7. During the course of hearing the Ld. Counsel for the assessee submitted that “Satvara Community” is covered in the list of backward class and for that Ld. Counsel submitted the notification No. 12011/44/99-B. C. C. Dated 21/09/2000, relevant part of that notification is reproduced as follows:

The Government of India, vide the Ministry of Personnel, Public Grievances and Pension (Deptt. of Personnel and Training) OM. No. 36012/22/93-Estt (SCT) dated the 8th September, 1993 have reserved 2% of vacancies in Civil Posts and Services under the Central Government, to be filled through direct recruitment in favour of the Other Backward Classes (OBCs).

2 The National Commission for Backward Classes (NCBC) was set up as per the provisions of the National Commission for Backward Classes Act, 1993 to entertain, examine and recommend upon the requests for inclusion and complains of over inclusion and under inclusion in the Central List of Other Backward Classes.

3 The Common Central List of Other Backward Classes in respect of 26 States/UTS were notified vide Ministry of Welfare Resolution No 12011/68/93-PCC (c) dated the 10th September, 1993. No. 12011/96/94-BCC dated the 19th October, 1994, No 12011/7/95-BCC dated the 24th May, 1995, No. 12011/99/94-BCC dated 11th December 1997. The said lists were modified on the basis of the recommendations of the National Commission for Backward Classes and notified from time to tin vide resolutions No.12011/96/94-BCC dated the 9th March, 1996, No. 12011/44/96-BCC dated 6 December, 1996, No. 12011/13/97-BCC dated 3rd December, 1997, No 2011/68/98-BCC dated 27th October, 1999, No. 12011/88/99-BCC dated 6th December, 1999 and No 12011/36/99-BCC dated 4th April, 2000.



4 The National Commission for Backward Classes have subsequently recommended Castes/communities (including sub-Castes synonyms) for inclusion/amendment in the Central List of OBCs in respect of Andhra Pradesh, Goa, Gujarat, Haryana, Karnataka, Madhya Pradesh, Orissa, Pondicherry, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

5 The Government have considered and accepted the recommendations of the Commission. Accordingly the inclusions/amendments in the Central List of OBCs in respect of aforesaid State/UTs as given in the annexure is hereby notified. These inclusions/amendments shall take effect from the date of issue of this Resolution.

Inclusion/Amendment in the Central List of Other Backward Classes (OBCs) in respect of under mentioned States/UTs.

- 1 Andhra pradesh
- 2 Goa
- 3 Gujarat
- 4 Haryana
- 5 Karnataka
- 6 Madhya Pradesh
- 7 Orissa
8. Pondicherry
- 9 Rajasthan
- 10 Tamil Nadu
- 11 Uttar Pradesh
- 12 West Bengal

Sr. No.	Name of State	Old Entry	New Entry
3.	Gujarat	Nil	81 Sathwara

8. The Ld. Counsel of the assessee submitted that provision for registration are relaxed in the case of backward classes and prayed for one more opportunity to explain its case before the lower authority

9. On the contrary the Ld. DR submitted that due opportunities were given to the assessee to explain its case. However, Ld. DR had not objected if the case is remitted back to the file of the Ld. CIT(E) for re-adjudication.

10. We have heard both the parties and perused the documents available on record. We note that the Ld. CIT(E) has not approve the application of the assessee trust, since the activities of the trust are in the nature of charitable and is restricted to the benefit of particular religious community or cast i.e., SATVARA Committee. We further note that the Ld. CIT(E) has not given due



attention to section 13, explanation 2 which talk about that the benefit can be extended to all those, who are Schedule Cast, backward class, Schedule Tribes, etc. and we further note that according to the notification of Government of India published on 25.09.2000, wherein the Satvara Committee of Gujarat which consider to be backward class. The Ld. CIT(E) should examine the said government notification to ascertain whether the assessee can claim benefit of the said notification to registration. Therefore, in the interest of justice, we restore the matter back to the file of Ld. CIT(E) for de novo adjudication and pass a speaking order after affording due verification about the application trust and assessee to explain the case before the Ld. CIT(E), Therefore, we deem it fit and proper to set aside the order of the Ld. CIT(E) and remit the matter back to the file of the Ld. CIT(E) to adjudicate the issue according to the notification No. 12011/44/99-B. C. C. Dated 21/09/2000.

11. The appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 05/02/2025

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

Rajkot

दिनांक/ Date: 05/02/2025

Copy of the Order forwarded to

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

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot