



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

AND

SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER

आयकर अपीलसं./ITA No.87/RJT/2024

Assessment Year: (NA)
(Hybrid Hearing)

Sadbhavna Trust, Rajkot. Dr Hedgevar Bhavan, 7 Rajputpara, Rajkot-360001	Vs.	The CIT(Exemption), Ahmedabad
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: AAZTS4549M		
(Assessee)		(Respondent)

आयकर अपील सं./ITA Nos. 88/RJT/2024

(निर्धारणवर्ष / Assessment Years: (NA))

Ashirvad Education and Charitable Trust Rajkot. Ashirvad, Ambika Kadwa Plot No.1 Jayant K G Road Rajkot- 360001	Vs.	The CIT(Exemption), Ahmedabad
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: AAETA6735C		
(Assessee)		(Respondent)

Assessee by	Shri Kamal Bhambhani, CA
Respondent by	Shri Sanjay Punglia, CIT(DR)
Date of Hearing	16/01/2025
Date of Pronouncement	23/01/2025

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned two appeals filed by the two different assessees, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Exemption)-, Ahmedabad [in short “the Ld. CIT(E)”] both, dated 18/12/2023,



wherein Ld. CIT(E) rejected application of both assessee- trusts, in Form No.10AB, u/s 12A(1)(ac)(iii) of the Act, stating that these trusts have failed to file the documentary evidences to prove the genuineness of the activities and activities of these trusts are not in consonance with objects of the trusts.

2. These two appeals filed by the different assesseees, contain identical and common issues, therefore, these appeals have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.

3. At the outset, Learned Counsel for the assessee, begins by pointing out that Ld. CIT(E) has failed to provide registration and denied the registration stating that assessee -trusts, did not file the required documents and evidences before him. The Ld. Counsel submitted before the Bench a screenshot of the departmental portal and stated that assessee had submitted the required documents, trust deeds, objects of the trusts and other evidences before the Ld. CIT(E). Despite these facts, the Ld. CIT(E) denied the registration, which is not acceptable. The Ld. Counsel further submitted that ld. CIT(E) could not examine these documents and evidences, so submitted by the assessee, therefore, Ld. Counsel for the assessee, requested the Bench that one more opportunity should be granted to these assesseees to explain their case before the Ld. CIT(E). Hence, Ld. Counsel prayed the Bench that these two appeals should be restored back to the file of Ld. CIT(E) for fresh adjudication.

4. On the other hand, Ld. CIT(DR), on behalf of the Revenue, argued that the screenshot of the department-site does not give clear picture and shows other date. These assesseees failed to provide relevant documents, to Ld. CIT(E), to prove the genuineness of the activities of the trusts, therefore, Ld. CIT(E) has rightly denied the registration. The Ld. CIT-DR took us through the order of the



Ld. CIT(E) and stated that Ld. CIT(E) has granted two opportunities of hearing viz: dated 05.10.2023, 20.11.2023, respectively, however, assessee did not file any documents and evidences, before the Ld. CIT(E). Therefore, registration should not be granted.

5. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position. We note that during proceedings before Ld. CIT(E), two notices of hearings were issued on 05/10/2023 and 20/11/2023. However, in one instance, the assessee sought adjournment, and against the second notice, the assessee did not file the documents and evidences before the Ld. CIT(E). Therefore Ld. CIT(E) has passed an *ex-parte* order stating that assessee failed to prove the genuineness of activities of the trust and the activities are not in consonance with the objectives of the trust. Therefore Ld. CIT(E) rejected the application of these two assessee-trusts, filed in Form No. 10AB, u/s 12A(1)(ac)(iii) of the Income Tax Act,1961.

6. Before us, ld. Counsel for the assessee stated that now these assessee- trusts are ready to file required documents and evidences, such as, trust- deeds, objects, activities of the trusts and other documents, as may be required by the ld. CIT(E), therefore we are of the view that in the interest of justice, one more opportunity should be provided to these assessee- trusts to file their required documents and evidences before the Ld. CIT(E) and to plead their case before the Ld. CIT(E).

5. We find that these assessee- trusts could not plead their case successfully before the Ld. CIT(E). We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. We note that the Hon'ble Supreme Court in M.S.Gill vs The Chief Election Commission 1978 AIR SC 851 held "The dichotomy between administrative and quasi-judicial function



vis-à-vis the doctrine of natural justice is presumably obsolescent after Kraipak (A.K. Kraipak vs UOI AIR 1970 SC 150) which makes the water-shed in the application of natural justice to administrative proceedings. The rules of natural justice are rooted in all legal systems and are not any new theology. They are manifested in the twin principles of *nemo judex in parte sua* (no person shall be a judge in his own case) and *audi alterem partem* (the right to be heard). It has been pointed out that the aim of natural justice is to secure justice. Therefore, without delving much deeper into the merits of the case, 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 afresh on merits. These two assesseees are also directed to file the required documents and evidences as and when call by the Ld. CIT (E). For statistical purposes, both the appeals of the assesseees-trusts are treated, as allowed.

6. In the result, both appeals of the assesseees-trusts are allowed for statistical purposes.

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

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Rajkot

दिनांक/ Date: 23 /01/2025

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot