

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

आयकर अपील सं./ITA No.1065/SRT/2024

(Physical Hearing)

Shah Manilal Motilal Khadayta Chhatralay and Bhuvan Mandal Gurjar Faliya, Contractor Ni Sheri, Haripura, Surat – 395003	Vs.	The CIT (Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AANTS1271L		
(Appellant)		(Respondent)

Appellant by	Shri P. M. Jagasheth, CA
Respondent by	Shri Ravi Kant Gupta, CIT-DR
Date of Hearing	13/02/2025
Date of Pronouncement	18/02/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH:

This appeal by assessee emanate from the order dated 27.06.2024, passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad [in short, 'CIT(E)'], wherein the CIT(E) rejected assessee's application for registration of trust u/s 12A(1)(ac)(iii) of the Income-tax Act (in short, 'the Act') by taking that assessee-trust is not provisionally registered under u/s 12A(1)(ac)(vi) of the Act.

2. Rival submission of both the parties have been heard and perused the record. The learned Authorized Representative (Id. AR) of the assessee submits that there is delay of 52 days in filling appeal before this Tribunal.

The order was passed by Id. CIT(E) on 27.06.2024, but the Managing Trustee of assessee-trust could not know the passing of the order as he had not checked ITBA portal nor his e-mail regularly. When his AR checked the ITBA portal, it was found that application has already been dismissed by the CIT(E). This fact was communicated to assessee in 1st week of October, 2024 and this appeal was filed on 18.10.2024. There is no intentional or deliberate delay in filing appeal. The assessee has good case on merit and is likely to succeed, if the appeal of the assessee is heard on merit. On merit, the Id AR of the assessee made similar submissions that the assessee could not make submissions as the Trustee missed the notices allegedly served through e-mail. He argued that principles of natural justice have not been adhered to. The Id. AR submitted that the assessee is ready to submit relevant documents and details before the CIT(E) and one more opportunity may be given to assessee to plead its case on merit. He, accordingly, requested that the matter may be remitted to CIT(E) for fresh adjudication.

4. On the other hand, the learned Commissioner of Income-tax – Departmental Representative (Id. CIT-DR) for the revenue relied on the order of CIT(E). He, however, would have no objection if the matter is set aside to the file of CIT(E). On the plea of condonation of delay, the Id CIT-DR for the revenue submits that the Bench may take a view in accordance with its discretion.

5. We have heard both the parties and perused the materials available on record. First, we are considering the plea of condonation of delay in filing appeal. Considering the submissions of Id AR of the assessee and the contents of the application for condonation of delay, we find that the delay in filing appeal is not intentional or deliberate; thus, delay in filing appeal is condoned. On merit, we find that the CIT(E) has decided the matter *ex parte* due to non-compliance by the applicant to the two notices issued by him. There was also no adjournment request by the assessee. The Id. AR has contended that the assessee-trust is ready to submit all the details and evidences needed by the CIT(E). He requested that in the interest of justice, one more opportunity may be given to the assessee to plead its case, which is strong on merits. We are of the view that one more opportunity should be given to the assessee to file requisite documents and evidences before the CIT(E) and to plead its case before him. It is a settled law that the principles of natural justice require the affected party to be granted sufficient opportunity of being heard to contest his case. Therefore, in the interest of justice, we set aside the order of CIT(E) and remit the matter to CIT(E) with a direction to pass fresh order in accordance with law after granting reasonable opportunity of hearing to the assessee. The assessee is directed to be more vigilant and diligent and to furnish all the details and explanations as needed by the CIT(E) by not seeking adjournment without

any valid reasons. With these directions, the grounds of appeal raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 18/02/2025 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat
दिनांक/ Date: 18/02/2025
SAMANTA

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

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

// TRUE COPY //

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat