



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER AND  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No.68/RJT/2025**

Shri Janam Education and Charitable Trust Khombhadi Main Bazar, Nakhatrana, Kutch-370 670	बनाम Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No. 609, Aayakar Bhawan (Vejalpur), Anandnagar Prahladnagar Road, Ahmedabad-38015
स्थायीलेखासं/. जीआइआरसं/. PAN/GIR No.:AAHTS 9182 L		
(अपीलार्थी/ <b>Appellant</b> )	..	(प्रत्यर्थी/ <b>Respondent</b> )

निर्धारितकीओरसे/Assessee by

: Shri R.B. Shah, AR

राजस्वकीओरसे/Revenue by

: Shri Sanjay Punglia, CIT DR

सुनवाईकीतारीख/**Date of Hearing**

: **28/04/2025**

घोषणाकीतारीख/**Date of Pronouncement**

: **29/04/2025**

आदेश/**Order**

**Per Dr. Arjun Lal Saini, A.M**

Captioned appeal filed by the assessee is directed against the order passed by the Ld. Commissioner of Income-tax(Exemption)-Ahmedabad [(in short "the Ld.CIT(E)"] vide order dated 03/03/2023, wherein the Ld. CIT(E) rejected the application of assessee filed by the assessee in Form No.10AB, for registration u/s 12AB of the Income Tax Act, 1961 (in short "the Act").

2. Grounds of appeal raised by the assessee are as follows:



*"1. The Learned CIT(Exemption), Ahmedabad has erred in law and facts, in rejecting the application in Form 10AB u/s 12AB of the Income Tax Act, 1961, on Non-satisfaction of genuineness of the activity of the trust.*

*2. The Learnd CIT(Exemption), Ahmedabad erred in passing the ex-parte order dated 03.03.2023, rejecting the application filed in Form 10AB for seeking fresh registration u/s 12A(1)(ac)(iii) of the I.T. Act, 1961 without providing sufficient opportunity of being heard and thus the order is bad in law and illegal.*

*3. The appellant craves leave to add, alter and amend or delete any of the grounds of appeal before or at the time of hearing."*

3. The appeal filed by the assessee before the Tribunal is barred by limitation of 634 days. The assessee moved a petition for condonation of delay requesting the Bench to condone the delay. The Ld. Counsel for the assessee explained the sufficient reasons stating that assessee was exercising alternative remedy and therefore the delay of 634 days has occurred. The Ld. Counsel for the assessee also submitted that the matter relevant to registration of the trust was handed over to previous tax consultant, who in turn did not take care of the matter and the application filed by him before Ld.CIT(E) was rejected because wrong filing of application and without containing required details. Thereafter assessee again applied for fresh registration u/s 12AB of the Act by filing Form-10AB through another tax consultant. In this process, the delay of 634 days occurred. The Ld. Counsel for the assessee invited our attention to the affidavit filed by Shri Panchubha Visaji Jadeja, trustee of assessee-trust, which is reproduced below:

*"1. The Trust was provisionally registered on dated 27.05.2021 for the period AY 2021-22 to AY 2023-24 vide Regi. No.AAHTS9182LE20206.*



*2. For the renewal of the trust we had handed over this matter to our previous tax consultant Mr. Haresh Thakker who had filed Form 10AB on dated 29.09.2022 and the same is rejected vide rejection order dated 03.03.2023 on account of non-submission of the requisite details, genuineness of activities of the trust not get established.*

*3. Without knowing amended legal provisions of the registration, he had again filed fresh application in Form 10AB on good belief that trust will get another chance and will get registration certificate but application filed on dated 01.06.2024 in Form 10AB is rejected on dated 19.12.2024, on ground that earlier application filed u/s 12A(1)(ac)(iii) is rejected vide order dated 03.03.2023, and also provisional registration dated 27.05.2021 is also cancelled. Hence, we are filing this appeal against the rejection order passed on dated 03.03.2023.*

*Our application dated 01.06.2024 is rejected on dated 19.12.2024 and then we were searching for the tax consultant who appear before the Hon'ble ITAT as my tax consultant is not appearing before the Hon'ble ITAT. After immediately finding the tax consultant and as per the advice given by him we are filing the appeal before the Hon'ble ITAT against the order dated 03.03.2023, passed by the CIT(Exemption), Ahmedabad."*

4. On the other hand, Ld. CIT-DR for the Revenue opposed the prayer of the assessee for condonation of delay and stated that delay should not be condoned on such flimsy reasons because it is the duty of the assessee to take care that the application should be filed in the correct Form and correct details should have been filed in Form-10AB of the Act and because of the carelessness of the assessee there is wasting of time and resources of Ld.CIT(E). Therefore, cost of Rs.10,000/- should be imposed on the assessee on account of negligence of the assessee. The Ld. CIT-DR also stated that assessee has failed to explain the sufficient cause for condonation of delay. Therefore, delay should not be condoned and appeal of assessee should be dismissed.



5. We have heard both the parties on the preliminary issue. We find that first application filed by the assessee-trust in Form-10AB was rejected because the details filed in Form-10AB was wrongly filed by the previous tax consultant and the previous tax consultant did not take care in filing Form-10AB correctly. We find that because of the mistake on the part of previous tax consultant, the assessee should not be penalized. When the first application in Form-10AB was rejected then assessee filed correct application in Form-10AB containing all the details and in this process the delay of 634 days occurred. We are of the considered view that assessee has explained sufficient cause and therefore delay needs to be condoned.

6. We are of the view that provisions of law have to be adhered strictly and that one cannot be allowed to act in leisure and make a mockery of enacted law, because law and provisions are laid down to benefit both sides of litigation. Be that as it may, we have to do justice and the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs Mst. Katiji and others, reported in 167 ITR 471, (1988) SC 897 (7) observed as follows:

*"4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non- deliberate delay....."*

7. When we weigh these two aspects then the side of justice becomes heavier and casts a duty on us to deliver justice. We note that the reasons given in the affidavit for condonation of delay, was convincing,



and the reason would constitute reasonable and sufficient cause for the delay in filing this appeal. Considering the above facts and circumstances of the case, as narrated above, we are of the considered opinion that in the interest of justice, the delay deserves to be condoned and to decide the appeal of assessee on merits in accordance with law. Accordingly, we condone the delay and admit the appeal of the assessee to adjudicate on merit.

8. At the outset Ld. Counsel for the assessee submitted that during proceedings before Ld.CIT(E) the assessee could not submit certain details and documents because these details and documents were not available when the proceedings before Ld. CIT(E) was going-on. Therefore, assessee could not submit the required details and documents for registration. However, now the assessee has in its possession entire documents and details which are to be submitted before Ld.CIT(E). Therefore, the matter may be remitted back to the file of Ld.CIT(E) for *de novo* adjudication.

9. On the other hand, Ld. CIT-DR for the Revenue submitted that assessee was negligent in submitting the details and documents before Ld.CIT(E) despite giving lot of opportunities to the assessee. Therefore, assessee is simply wasting time and resources of Ld.CIT(E). Therefore, Ld.CIT-DR strongly submitted that heavy cost should be imposed on the assessee if the matter is to be remitted back to the file of Ld.CIT(E).



10. We have heard both the parties and perused the materials available on record. We note that Ld.CIT(E) has denied the registration u/s 12AB of the Act mainly on the reason that assessee has failed to submit the relevant details and documents for verification of Ld.CIT(E). The Ld.CIT(E) has given ample opportunities to the assessee to submit the details and documents. However, the assessee-trust did not take care to submit the required details and document like activities of trust, objects of the trust and other details as required by the Ld.CIT(E). Since assessee-trust has failed to submit these details and documents before Ld.CIT(E), therefore, Ld.CIT(E) dismissed the application of assessee in Form-10AB for registration u/s 12AB of the Act stating that assessee-trust has failed to file documentary evidence to satisfy about the genuineness of the trust activities and to verify these activities whether they are in consonance with its objects.

11 The Ld. Counsel of the assessee submitted before us that the required details and documents were not available with the assessee readily when the proceedings were going on before Ld.CIT(E). However, now these details and documents are available with the assessee. The Ld. Counsel of the assessee contended that one more opportunity should be given to assessee to submit these details and documents before Ld.CIT(E). Therefore, the matter may be remitted back to the file of Ld.CIT(E) for fresh adjudication. We find that assessee could not submit the required details and documents before Ld.CIT(E) because these



details and documents, which were required by the Ld.CIT(E), were not available with the assessee-trust at the time when the proceedings were going on. Now, before us Ld. Counsel stated that assessee has entire details and documents with it and which are to be submitted before Ld.CIT(E). Considering these fact we are of the view that on more opportunity should be given to assessee to plead its case before Ld.CIT(E) on account of non-compliance attitude of the assessee, we impose cost of Rs.10,000/- (Rupees ten thousand) on the assessee, which is to be deposited in the Prime Minister National Relief Fund. Therefore, we set aside the order passed by Ld.CIT(E) and remit the issue back to the file of Ld.CIT(E) for fresh adjudication in accordance with law. Needless to direct that before passing order afresh, the Ld.CIT(E) shall allow reasonable opportunity to the assessee we also direct the assessee to be more vigilant and to make timely compliance of the notice issued by Ld.CIT(E). With these directions, the grounds of appeal raised by the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 29 /04/2025.

Sd/-  
**(DINESH MOHAN SINHA)**  
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-  
**(DR. ARJUN LAL SAINI)**  
लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date:29/04/2025

DKP Outsourcing Sr.P.S



आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण ,राजकोट