



**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. 64/RJT/2025

(निर्धारणवर्ष / Assessment Year: (NA))

(Hybrid Hearing)

Viklang Vikas Foundation Ramdev Nagar, Nr. Bus Station, Rasaliya, Nakhatrana Gujarat – 370670	Vs.	CIT(Exemption), Room no. 609, floor – 6, Aayakar Bhavan (Vejalpur), Anandnagar, Prahladnagar Road, Gujarat – 380015
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAATV8066F		
(Appellant)		(Respondent)

Appellant by : Shri R. B. Shah, Ld. AR
Respondent by : Shri Sanjay Punglia, Ld. CIT(DR)
Date of Hearing : 28/04/2025
Date of Pronouncement : 29/04/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

The appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax (Exemption), Ahmedabad [in short 'Ld. CIT(E)'], dated 18.09.2023, u/s 12AB of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. The assessee has raised following grounds of appeal:

“1. 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 Learned, CIT (Exemption) Ahmedabad erred in passing the ex-parte order dated 18.09.2023, rejecting the application filed in Form 10AB for seeking fresh registration



u/s 12A(1)(ac)(ii) 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 Learned CIT (Exemption), Ahmedabad has erred in laws and facts, in cancelling the provisional registration granted in Form 10AC, dated 04.04.2022.

4. 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. At the outset, the appeal is delayed by 425 days. Ld. AR has filed an application for condonation of delay. The relevant part of the condonation of delay are reproduced as follows:

“1. For the renewal of the trust petitioner had handed over this matter to their previous tax consultant Mr. Haresh Thakker who had filed form 10AB on dated 13.03.2023 and the same is rejected vide rejection order dated 18.09.2023 on account of non- submission of the requisite details, genuineness of activities of the trust not get established and provisional registration dated 04.04.2022 is also cancelled.

2. Without knowing amended legal provisions of the registration, he had again filed fresh application in from 10AB on good belief that trust will get another chance and will get registration certificate but while filing application dated 20.05.2024 mistakenly application is filed under section 12A(1)(ac) (ii) instead of section 12A(1)(ac)(iii) Hence, Application is withdrawn on dated 21.06.2024.

3. Thereafter he had also try to file another application but due to technical reasons he was unable to file the renewal application under correct section. Hence, we are filing this Appeal against the rejection order passed on dated 18.09.2023.

After withdrawing our application dated 21.06.2024, petitioner were searching for the tax consultant who appear before the Hon'ble ITAT as their tax consultant is not appearing before the Hon'ble ITAT. After immediately finding the tax consultant and as per the advice given by him petitioner is filing the appeal before the Hon'ble ITAT against the order dated 18.09.2023, passed by the CIT (Exemption), Ahmedabad. It is therefore delay in appeal filing by 393 days.”

4. Ld. AR submitted that the appellant is a trust and applied for registration u/s 12AB(1)(b) and filed Form 10AB with the relevant document with application form there after notice in mail id of assessee is issued by the CIT(Exemption) Ahmedabad as on 18.07.2023 is short period. Appellant filed adjustment against his notice then second notice as on 19.08.2023 is issued to the assessee on mail and hearing was fixed in second notice is not aware or in knowledge with the



assessee. Further no any notice is served to the appellant on physical mode or no order is served by physical mode therefore, the appellant is not aware about the order passed by the CIT(E) as on 18.09.2023. Hence, there is a delay occurred in filing the appeal.

5. On the contrary Ld. DR has submitted that due to such careless attitude and negligence on the part of the consultant nobody attended the Ld. CIT(E) proceedings and present application filed in Form 10AB u/s. 12A(1)(ac)(iii) of the Act is rejected and regulation is also cancelled.

6. We have heard both the parties and we note that it is because of the mistake of the tax consultant the appeal was not pursued before the Ld. CIT(E). The assessee should not be suffer because of mistake committed by the Ld. counsel. We find that there is a sufficient cause to condone the delay, therefore, we condoned the delay and admitted the appeal of the assessee for hearing.

7. Brief facts of the case are that the assessee is public trust registered under the Bombay public trust Act 1950 as on dt. 17.10.2005. The appellant filed an application for form 10AB fore the CIT(E) for registering the trust u/s12AB of the Act with necessary evidence as per the prescribed Rules. The show cause notice was issued on 18.07.2023 but adjournment was take by the appellant trust thereafter notice was issued on 19.08.2023 & 12.09.2023 by the department but the appellant was unaware about the notice hence no reply was done by the appellant trust. Therefore, the registration u/s 12AB was rejected on 18.09.2023 and this order is not served to the assessee by physical mode.

8. The assessee is in appeal before us against the order passed by the Ld. CIT(Exemption)



9. Ld. AR has submitted that the show cause notice was issued on 18.07.2023 but adjournment was taken by the appellant trust thereafter notice was issued on 19.08.2023 & 12.09.2023 by the department but the appellant was unaware about the notice hence no reply was done by the appellant trust. Ld. counsel further submitted that Ld. CIT(E) has not considered the evidence filed with application form and relied on the judgment of Hon'ble Supreme Court in the case of CIT - Ujjain vs. Dawoodi Bohara Jamat Civil Appeal No.2492 of 2014. The Ld. Counsel prayed for one more opportunity to present the case before the authorities.

10. On the contrary the Ld. DR has relied upon the order of Ld. CIT(Exemption), Ahmedabad.

11. We have heard both the parties and perused all the material available on record. We note that the ld. CIT(E) has noted that notice issued to the assessee for hearing of the case but the order is silent on the service of notice upon the assessee. We further note that the impugned order of the Ld. CIT(E) is a non-speaking order. We do not wish to make any comment on the merits of the grounds raised by the assessee. We further note that the CIT(E) has not decided the issue in respect of the grounds raised by the assessee in memo of appeal as per the mandate of the provision of section 250(6) of the Act. We are of the view that one opportunity should be given to the assessee to present his case before the Ld. CIT(E). A cost of Rs.5,000/- is imposed on the assessee for non-compliance attitude which is to be deposited with Prime Minister Relief Fund. We note that it is settled law that principle of natural justice and fair play required that effected party should be granted sufficient opportunity of being heard to context this case. Therefore, we deem it fit and proper to set aside the order of the CIT(E) and remit the mater back to the file of Ld. CIT(E) to adjudicate the issue afresh on merits after giving reasonable opportunity of being heard to the appellant. The Ld. CIT(E) shall allow one more opportunity of being heard to the assessee. The assessee is also directed to furnish all the evidence before the Ld. CIT(E) as when ask for.



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

Order pronounced in the open court on 29- 04 -2025

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

Rajkot

दिनांक/ Date: 29 / 04 /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

(True Copy)

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot