

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT
MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.797/Ind/2024 (AY: 2024-25)

Sirseth Sarupchand Hukum Chand Charitable Trust, 1, Janwari Bag Nasia, Indore (PAN: AABTS7758Q) (Appellant)	<u>बना</u> <u>म/</u> Vs.	CIT (Exemption), Bhopal (Revenue)
Assessee by	Ms. Shreya Jain, AR	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	28.04.2025	
Date of Pronouncement	05.05.2025	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal under the Act. The assessee is aggrieved by the order bearing No.ITBA/EXM/F/EXM45/2024-25/1068282596(1) dated 03.09.2024 passed by CIT (E) which has rejected the request for registration under the

provisions of **Section 12AB** of the Act (New provision), which is hereinafter referred to as the "**impugned order**".

2. **FACTUAL MATRIX**

2.1 That the assessee is a Trust registered u/s 12A of the Act.

2.2 That in pursuance to the amendment in the Finance Act, 2020 all existing charitable or religious trusts or institutions registered u/s 12A or 12AA of the Act were required to apply for re-registration under the newly substituted Section **12AB** in Form 10A within due date (subsequently extended). The designated authority would grant registration u/s 12AB or 10(23C) for a period of 5 years.

2.3 That pursuant to the amendment ,the assessee trust filed Form 10A on 14.12.2021 along with all supporting documents including **registration certificate u/s 12A obtained on 12.06.2001**. However due to **wrong filling of section code** i.e. 02-Item(A) of Sub clause (vi) of Clause (ac) of Sub Section (1) of Section 12A in Form 10A instead of correct section code 01-sub clause(1) of clause(ac) of Sub section(1) of Section 12A.

2.4 That the assessee trust initially got provisional registration for **three years** i.e. Assessment Year **2022-23 to 2024-25** in

Form 10AC instead of five (5) years since the registration of existing trusts/institution registered u/s 12A & 12AA of the Act is of five years.

2.5 That the assessee trust after getting the provisional registration filed **Form 10AB on 15.03.2024 for final/regular registration as per the amended provision of the Act.**

2.6 That the Ld. **CIT(Exemption), Bhopal issued a notice dated 02.08.2024** whereby the assessee trust was asked to provide various informations/documents which was duly complied by the assessee trust **vide letter dated 16.08.2024.** That however in the letter/notice (supra) the Ld. CIT(E), Bhopal however **had not pointed out** that the application for registration in Form 10AB is filed under wrong sub-clause i.e. filed up section code 01-sub clause(ii) of clause(ac) of Sub Section (1) of Section 12A instead of correct code 01, sub clause (I) of Section 12A(1)(ac) of the Act and thereby did not allow any opportunity whatsoever to correct the technical error which was committed by the assessee trust and **rejected** the application for registration as and by way of **"impugned order"**.

2.7 That being aggrieved by the **“Rejection for Registration”** as and by way of the **“impugned order”** the assessee has filed the present appeal in Form No.36 and has raised the following grounds of appeal against the **“impugned order”** which grounds are stated as below:-

S.No.	Particulars	Tax Effect
1	<i>That impugned order passed by the Ld. CIT (Exemption) is bad in law, without jurisdiction, and without allowing proper and reasonable opportunity to make correction in the application form for re-registration.</i>	
2.1	<i>That on the facts and in the circumstances of case and in law, the Ld. CIT (Exemption) erred in rejecting the application for re-registration without providing reasonable opportunity to correct technical mistake of section code in form 10AB filed for re-registration of Trust.</i>	
2.2	<i>That on the facts and in the circumstances of case and in law, the Ld. CIT (Exemption) failed to appreciate the facts that the issue in question was highly technical, thus the CBDT also appreciated the genuine hardship of the institutions/ Trust and allowed opportunity to submit fresh application by filing correct section code, but the Ld. CIT (Exemption) has not provided such opportunity to the Trust.</i>	

3.

Record of Hearing

3.1 The hearing in the present appeal took place before this Tribunal on 28.04.2025 when the Ld. AR for and on behalf of the assessee appeared before us and interalia submitted that the **“impugned order”** is bad in law, illegal and not proper. It is

passed in the violation of the principles of natural justice. It thus deserves to be set aside. It was emphatically contended that while it is true and fact that the assessee claimed final registration of Trust under **“Section code-01-Sub clause(ii) of clause (ac) of sub-section(1) of Section 12A in Form No.10AB dated 15.03.2024”** which Ld. CIT(E) has rightly held to be **in-applicable in the “impugned order”** but the Ld. CIT(E) ought to have given assessee trust at least an opportunity to rectify such a mistake. Admittedly no such opportunity was given to the assessee trust to correct such a mistake, consequently the **“impugned order”** came to be passed. The Ld. AR contended that Ld. CIT (E) ought not to have adopted such a **“highly technical mistake”** as gross error vitiating the registration process, as the assessee trust is very old trust originally incorporated in year **1921 on 9th June (page 13 of paper book)**. It was also contended that the Ld. CIT (E) had in fact issued a notice dated 02.08.2024 which was duly complied by the assessee trust vide their reply dated 16.08.2024 and that the same was accepted by the Ld. CIT (E) without finding any deficiency/error. The Ld. CIT (E) therefore ought to have given the

assessee trust an opportunity to make suitable correction which was not given. Such error or mistake was not even pin pointed in notice dated 02.08.2024, which was issued for making compliance only. Per contra Ld. DR for an on behalf of the Revenue interalia stated very fairly that Ld. CIT (E) ought to have given an opportunity to the assessee trust to rectify such error or mistake which perse appears to be a bonafide and genuine one. Under these peculiar facts and circumstances of the case it would be **"just and fair"** that the **"impugned order"** be set aside and remanded back to the file of CIT (E).

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the **"Impugned Order"** basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case and after hearing and upon examining the rival contentions are of the considered opinion that **"Impugned order"** is in violation of the principles of natural

justice as Ld. CIT (E) ought to have given an opportunity to the assessee trust to rectify the mistake which opportunity was not given. We also hold that it is substance which is of importance and not the Form or clauses mentioned therein. Mistake/error is not that serious enough which should result in rejection of an application for final registration which was made bonafidely. There is no finding in the **“impugned order”** that it was made willfully and/or deliberately with intention to make a wrongful gain. Under these facts and circumstances we set aside the **“impugned order”** back to the file of CIT (E) with a direction to reexamine the case for final registration afresh and thereafter pass a fresh order on *denovo basis*. We direct the assessee to rectify the mistake which has occurred and quote correct provision of law as soon as possible before Ld. CIT (E) take up the case on *denovo basis* in relevant form. We direct CIT (E) to pass a detailed order on merits, **basis** information and documents provided by the assessee trust for the purpose of final registration.

5.

Order

5.1 The impugned order is set aside as and by way of remand back to the file of Ld. CIT(E) on *denovo basis*.

5.2 Appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 05.05.2025.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 05/05/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore