

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.949/SRT/2024

(Hybrid hearing)

Hands For Human Happiness B-108, Sai Milan Residency, Sudama Chowk, Mota Varachha, Surat-394 101	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Room No.609, Floor-6, Aayakar Bhawan (Vejalpur), Nr. Sachin Tower, 100 Foot Road, Anandnagar- Praladnagar Road, Ahmedabad- 380 015
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AABTH 1622 E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Dharmesh Sachapara, CA
राजस्व की ओर से /Respondent by	Shri Ravi Kant Gupta, CIT-DR
सुनवाई की तारीख/Date of Hearing	25/03/2025
उद्घोषणा की तारीख/Date of Pronouncement	28/05/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from order of Commissioner of Income-tax (Exemption), Ahmedabad [for short to as "CIT(E)"] dated 15.05.2024 in rejecting approval of Trust under section 12AB of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'). Though, the assessee has raised multiple grounds of appeal, however effective ground of appeal relates to rejection of approval under section 12AB of the Act to assessee-trust. Grounds of appeal raised by the assessee are as under:

1. *The appellant submitted an application for provisional registration, intimation, approval, or provisional approval in accordance with Rule 17A/11AA/2C/5CA on February 20, 2023. The appellant received approval for provisional registration on February 28, 2023. Subsequently, the appellant commenced charitable activities and applied for final registration on November 24, 2023. In January and February 2024, the appellant filed grievances to ascertain the status of the application. However, the Learned CIT did not issue any notice or response until March 19, 2024, when a notice was sent via email.*
2. *The appellant's legal documentation is managed by Namrata Chodvadiya, a professional chartered accountant and trustee of the trust. The email address used for communication is that of Namrta Chodvadiya. Due to her maternity leave, she did not review the email until August 26, 2024. Upon reviewing the correspondence, she verified the mail. Therefore, the appellant was unable to provide a timely response to the notice due to the trustee's maternity leave.*
3. *Mr. Mehul Akbari, the President of the trust, has been heavily engaged in his professional duties for the past seven months. During this period, he has travelled abroad on several occasions, specifically from April 11 to April 20, 2024, from July 27 to August 3, 2024 and August 12, 2024 to August 24, 2024. Consequently, Mr. Mehul Akbari was not in India during these times and, consequently, was unable to monitor the status of the application.*
4. *In the interest of justice and to provide an opportunity for a response, it is requested that the Learned CIT reissue the notice with reference to the application submitted by appellant in Form 10AB to enable the appellant to respond appropriately.*

2. Facts of the case in brief are that appellant filed application for registration u/s 12AB of the Act on 24.11.2023. The provisional approval had been granted to it on 28.02.2023. In response to application filed by the appellant in Form-10AB, notices were issued by Ld.CIT(E) on 19.03.2024 and 04.04.2024 requiring the assessee to submit certain details and documents. The appellant did not file any submission or reply due to which, the Ld.CIT(E) could not verify (i) the genuineness of the trust (ii) the activities of the trust are

in consonance with the objects of the assessee-trust and (iii) that other laws material for the purpose of achieving objects are complied with. Hence, the application filed in Form-10AB u/s 12A(1)(ac)(iii) of the Act was rejected and provisional registration was also cancelled.

3. Aggrieved by the order of Ld.CIT(E), appellant filed present appeal before the Tribunal. The Ld. AR submitted that the appellant received approval for provisional registration on 28.02.2023 and started its charitable activities. The appellant filed application on for final registration on 24.11.2024. The legal documentation of the appellant-trust was managed by Mrs. Namrata Chodvadiya, Chartered Accountant and trustee of appellant-trust. Due to maternity leave, she could not receive the e-mail till 26.08.2024. Therefore, appellant was unable to provide timely compliance to the notice issued by Ld.CIT(E). It was also submitted that the president of the trust, Mr. Mehul Akbari was engaged in professional duties and he travelled abroad on several occasions during the said period. Hence, he was unable to monitor the status of application. Therefore, the non-compliance was not intentional but due to circumstances beyond control of the appellant. The Ld. AR of the assessee requested the Bench that one more opportunity of hearing may be given before Ld.CIT(E) on merit.

4. On the other hand, Ld. Commissioner of Income-tax Departmental Representative (Ld.CIT-DR) for the Revenue supported the order of Id. CIT(E).

He would, however, have no objection if the matter is restored to Ld.CIT(E) for fresh consideration on merit.

5. We have considered the rival submissions of both the parties and have gone through order of lower authorities carefully. The Ld.CIT(E) issued two notices on 19.03.2024 and 04.04.2024 respectively. The assessee-trust did not file any reply to the said notices. In absence of the details, the Ld. CIT(E) could not verify the genuineness of the activities of the trust or that activities are in consonance with objects of the trust. Further, he was unable to ascertain whether the other laws material for purpose of achieving objects are complied with. Hence, he rejected the application filed by the assessee and also cancelled the provisional registration. Thus, application of assessee-trust was rejected for want of proper submission. The principle of *audi alteram partem* envisages that parties are eligible for fair hearing or that no one should be condemned unheard. Thus, considering the prayer of Ld. AR of the assessee that he undertook on behalf of assessee-trust to be more vigilant in future in making compliance, this appeal of assessee is restored back to the file of Ld.CIT(E) to pass the order afresh in accordance with law. Needless to direct that before deciding the application afresh, the Ld. CIT(E) shall grant reasonable and fair opportunity of hearing to the assessee and allow it to make further submission to prove the objects of assessee-trust and its activities. The appellant-trust is also directed to file/furnish any other

necessary information, if it so desires. With this direction, the grounds of appeal raised by the assessee are treated as allowed for statistical purposes.

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

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963
on 28/05/2025 in the open court.

Sd/-
(SIDDHARTHA NAUTIYAL)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

सूरत /Surat

दिनांक/ Date: 28/05/2025

Dkp Outsourcing Sr.P.S*

आदेश की प्रतिलिपि अग्रेषित/ 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 आधिकरण, सूरत/ DR, ITAT, SURAT*
- *गार्ड फाईल/ Guard File*

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत