



IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER
&
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 396/SRT/2025
(निर्धारणवर्ष / Assessment Year: (NA)
(Hybrid Hearing)

| | | |
|--|------------|---|
| Rotary Shaishnik Tabibi Seav Sahayak Mandal Vai – Bhilad, At Post Sarigam Valsad – 396170 | Vs. | CIT(Exemption) Room No. 609, Floor No. 6, ayakar Bhavan (Vejalpur), Prahalad nagar, Road, Ahmedabad - 380015 |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAHTS6053N | | |
| (Appellant) | | (Respondent) |

Appellant by : Shri Suresh K. Kabra, CA
Respondent by : Shri Ravi kant Gupta, Ld.CIT(DR)
Date of Hearing : 04/08/2025
Date of Pronouncement : 18/08/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax(Exemption), wherein the Ld. CIT(E) rejected the assessee's application in Form 10AD for approval u/s. 12AB(I)(b)(ii) dated 18.09.2023 of the Act and also cancelling the rejected provisional registration of the assessee.

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

1.The Ld CIT (E) was not just and proper on the facts of the case and in law in rejecting the application of the Trust for registration u/s 12A.

2 PRAYER

2.1 The REJECTION order may be recalled and registration u/s 12A may be directed to be allowed to the Appellant.



2.2 Personal hearing may be granted.

2.3 Any other relief that your honour may deem fit may be granted.

3. The appellant craves leave to add, amend, alter or deleted any or all of the above grounds of appeal.

3. Brief facts of the case that

| | |
|--|---|
| Date of application for registration or approval in FORM 10AB and section code | 30.03.2023 Section code: 12A(1)(ac)(iii) |
| Date of provisional approval as per FORM 10AC | 27.05.2021 |
| Section/sub-section/clause/sub-clause/proviso in which provisional registration is being granted | Sub clause (vi) of clause (ac) of sub. section (1) of section 12A |
| Assessment year or years for which the trust or institution is provisionally approved. | From A.Y. 2021-22 to A.Y. 2023-24 |

That the application for registration filed by the applicant in FORM 10AB, the applicant was requested to submit certain details/documents vide notice dated 19.07.2023 and 22.08.2023. In response to the said notices, the applicant has not complied with notice, a final opportunity was given to the applicant through notice dated 12.09.2023, and ask for under-mentioned detail;

State the date of commencement of your activities along with evidence, if any.

- Furnish details of top 5 items each, of donation received (giving name & address of donor amount donated & mode of donation) and expenditure related to the specific object of the trust along with supporting evidence in preceding 3 years and current year.
- Specify the clause in Trust deed/ MoA regarding irrevocability / distribution of funds/assets in the case of dissolution. In case there is no such clause explain why your application should not be rejected.



- Furnish statements of all bank accounts held by you alongwith bank book for the last two years.
- Have you made any violations of conditions specified under section 12AB(4) explanation clause(a) to clause(e), 13(1) clause (a) to (c). 1 proviso to section 2(15) or any action has been taken in your case by the department for any default under these provisions or any action has been taken for any other law in force. If yes, furnish necessary details has any demand been raised by the department in your case in preceding 3 years, if yes, furnish the copy of order.
- State as to whether the objects are for any particular caste, creed and religious community.
- Submit proof of identity of the main/managing Trustees/ Directors/ President /Secretary of the Trust/Society/Non Profit Company (as the case may be).
- Has any action has been taken against any the member /office bearer/trustee/beneficial owner/directors of entity for anti national activity/terrorist activities. If yes, furnish details
- Provide ledger account of all the Expenditure towards charitable and religious objects in preceding 3 years including current year.
- Please furnish lease agreement trust at above stated address or any other document evidencing the existence of the TAX DEPAR
- Furnish/provide addresses of immovable properties held by you.
- Furnish undertakings in given pro forma as per Annexure-1.
- In case, trust/institution runs any Education Institute/ hospital/ old age home/ orphanage/centre for disabled/ centre for women & children etc. That the appellat Trust has not filed the require detail in support of the application. That the Ld. CIT(E) reject the application dated 18.09.2023 with following details;
 - i. Genuineness of the activities of the trust or institution.



ii. the objects of the trust or institution. That the activities of trust or institution are in consonance with

iii. That other laws material for the purpose of achieving objects are complied with.

4. Aggrieved by the impugned order both dated 18.09.2023 of the Ld. CIT(E), the assessee is in appeal before us.

5. At the outset, that the appeal filed late by 562 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The relevant part of the application for delay is as under;

"01. that I am president of ROTARY SHAISHNIK AND TABIBI SEVA SAHAYAK MANDAL and duly authorised to make this Affidavit and sign on behalf of the Trust.

02. That the Trust had made an application for registration of the Trust u/s 12A r.w.s. 12AB before the Ld Commissioner of Income Tax Exemption), Ahmedabad on 30/03/2023 under clause (iii) of Section 12A(1)(ac).

03 That the Ld Commissioner of Income Tax (Exemption) had issued letter for making enquiry in the matter of TRUST OBJECTS and other matters, but the notices on the E Mail were not received, as no E Mail was mentioned on the notices. The copies of the Notices are enclosed herewith as per ANN "A". For the reason the Trust could not attend to the proceedings.

04. That in the meantime the assessment proceeding in the case of the Trust for the AY 2023-24 was also going on. 07/02/2025, a "Show Cause Notice" was received by the TRUST from the Ld Faceless Assessing Officer. As per the Notice, it came to known for the first time to the Trustees that an Order of Rejection on 18/09/2023. The Trustees had been made by the CIT (E) immediately contacted their Tax Consultant CA and it was advised for filing an APPEAL before the Hon'able ITAT, Surat Bench. The copy of the "Show Cause Notice" issued by the Ld Faceless Assessing Officer is attached to this Affidavit as ANN "B"

05. That the appeal challenging the Rejection Order dated was filed before your honours on 02/04/2025.

06. That the period from the date of Order i.e. 18/09/2023 to 07/02/2025 (562 days), the trust management was not aware of any rejection order passed by the Ld CIT(E) and for the first time, the order came to be known and communicated to the Trust on 07/02/2025, when the Tax Consultant CA was approached. From the date of communication i.e. 07/02/2025, the Trust had filed the APPEAL within TWO months from the end of the month in which the Order came to the knowledge of the trust i.e. on 02/04/2025.

07. That the Affidavit is being submitted to explain the DELAY in filing the APPEAL before your honours. The Trust prays and request for condoning the



delay in the matter so as to carry the Justice to its logical end. The delay was neither deliberate nor conscious. The Assessee trust is not benefited by delaying the Appeal. The TRUST assure your honours that in future, the Trust Management will be more vigilant and cautious in the matter of Compliance and Orders.”

6. During the course of argument, the Ld. AR of the assessee stated that the assessee did not receive any show cause notice send by the Ld. CIT(A) on email because the notice on email did not receive by the assessee. That the assessee prayed that the one more opportunity to the assessee to represent his case before the lower authority.

7. On the other hand, the Ld. DR for the revenue relied on the order of the Ld. CIT(E), and not objected to the prayer of the Ld. AR.

8. We have carefully considered the rival contentions and perused the materials available on record. In the absence of any contrary material of fact available on record, there it appears to be a sufficient cause for delay in filing the present appeal, Sec. 253(5) of the Act, empowers the ITAT to admit an appeal after delay explained by the assessee. After considering the reason explained, we find that delay is not deliberate nor due to negligence on the part of the appellant. In the interest of justice, we take a judicious view and we condoned the delay in filing the appeal by 562 days, and the appeal heard on merit.

9. We hold that the orders dated 18.09.2023 passed by the CIT(Exemption), Ahmedabad, rejecting the assessee's applications under section 12A(1)(ac)(iii) of the Income-tax Act, 1961, on the ground that the appellant failed to reply the notice, since the notice was not served on the appellant. We therefore set aside and the direct the Ld. CIT(E) to adjudicate the matter after giving due opportunity to the appellant. The assessee is directed to fully cooperate in the registration proceedings before the CIT(Exemption) and to furnish all requisite information and documents as may be required to facilitate timely adjudication.



10. In the result, appeal filed by the assessee is allowed for statistical purpose.

**Order pronounced under proviso to Rule 34 of the ITAT Rules, 1963
on 18/08/2025.**

Sd/-
(BIJAYANANDA PRUETH)
ACCOUNTANT MEMBER
Surat

दिनांक/ Date: 18/08/2025

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

// True Copy //

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot