

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.2204/M/2021**

**Assessment Years: 2022-23 to 2026-27**

Sir Ratan Tata Trust, Bombay House, 24 Homi Modi Street, Fort, Mumbai – 400 001 <b>PAN: AAATS1013P</b>	Vs.	Commissioner of Income Tax (Exemptions), 6 <sup>th</sup> Floor, Cumballa Hill, MTNL Building, Pedder Road, Mumbai – 400 026
(Appellant)		(Respondent)

**ITA No.2206/M/2021**

**Assessment Years: 2022-23 to 2026-27**

Sir Dorabji Tata Trust, Bombay House, 24 Homi Modi Street, Fort, Mumbai – 400 001 <b>PAN: AAATS0494G</b>	Vs.	Commissioner of Income Tax (Exemptions), 6 <sup>th</sup> Floor, Cumballa Hill, MTNL Building, Pedder Road, Mumbai – 400 026
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Sukhsagar Syal, A.R.  
Revenue by : Shri Kailash Kanojia, D.R.

Date of Hearing : 13 . 09 . 2022

Date of Pronouncement : 29 . 09 . 2022

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

Since common questions of facts and law have been raised in both the inter-connected appeals, the same are being disposed of by way of composite order to avoid repetition of discussion.

2. The appellants, Sir Ratan Tata Trust and Sir Dorabji Tata Trust (hereinafter referred to as 'the assessee') by filing the present appeals, sought to set aside the impugned orders dated 01.10.2021 & 02.10.2021 passed by Principal Commissioner of Income Tax, Mumbai [hereinafter referred to as the PCIT] qua the assessment year 2022-23 to 2026-27 on on identically worded grounds inter alia that :-

***“1. The Learned Principal Commissioner of Income-Tax (PCIT)/ Commissioner of Income-Tax (CIT) grossly erred in issuing order granting registration under section 80G of the Income Tax Act, 1961 (ITA) dated 02.10.2021 which imposed conditions on the basis of which the registration was granted, even though there is no provision in the ITA which permits the PCIT to grant conditional registration.***

***2. The PCIT failed to appreciate that there is no provision in ITA which permits withdrawal / cancellation of section 80G certificate / order.***

***3. The PCIT grossly erred in holding that the order granting registration is liable to be withdrawn in the circumstances specified in the order.***

***4. The appellant craves leave to add to, alter, amend and/or delete in all the foregoing grounds of appeal.”***

3. Briefly stated facts necessary for adjudication of the controversy at hand are: both the assessee being a charitable trust sought to grant approval with effect from assessment year A.Y. 2022-23 to A.Y. 2026-27 under section 80G of the Income Tax Act, 1961 (for short 'the Act') after compliance with the necessary formalities. However, the Ld. PCIT vide impugned order granted the registration under section 80G of the Act, however, subject to the conditions to be complied with by the assessee which is under challenge before the Bench.

4. From the impugned order passed by the Ld. PCIT, ground raised and argument addressed, the sole issue raised for determination in both the aforesaid appeals is:

***“As to whether the Ld. PCIT is empowered to accord approval sought for by the assessee under section 80G subject to the conditions to be complied with by the assessee trust”.***

5. We have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

6. Undisputedly, the Ld. PCIT has granted the approval applied for by the assessee under section 80G of the Ac, however, subject to the conditions as under:

***“a. No change in the deed of the applicant trust/society/non profit company or any of its bye-laws shall be affected without the due procedure of law and the approval of the Competent Authority as per provisions of law and its intimation shall be given immediately to Office of the Jurisdictional Commissioner of Income Tax and to the Assessing Officer.***

***b. Any change in the trustees or address of the applicant trust/society/non-profit company shall be intimated forthwith to Office of the Jurisdictional Commissioner of Income Tax and to the Assessing Officer.***

***c. The applicant trust/society/non profit company shall maintain its accounts regularly and also get them audited as per the provisions of section 80G(5)(iv) read with section 12A(1)(b)/10(23C) of the Income Tax Act, 1961.***

***d. Certificate of donation shall be issued to the donor in form no 10BE, as per the provisions of rule 18AB.***

***e. No cess or fee or any other consideration shall be received in violation of section 2(15) of the Income Tax Act, 1961.***

***f, The trust/society/non profit company shall file the return of income of its trust/society/non profit company as per the provisions of section 139(1)/(4A)/(4C) of the Income Tax Act, 1961.***

***g. The approval granted through this order shall apply to the donations received only if the applicant trust/society/non profit company, established in India for charitable purpose, fulfills the conditions laid down in section 80G(5) of the Income Tax Act, 1961 and the religious expenditure does not exceed the limit specified in section 80G(5B) of the said Act.***

***h. If the applicant trust/ society/ non-profit company derives any income, being profits and gains of business, it shall maintain separate books of account in respect of such business as provided in section 80G(5)(f) of the Income Tax Act, 1961. Further, any donation received by the applicant shall not be used, directly or indirectly, for the purposes of such business and a certificate shall be issued to every person making a donation to the effect that the applicant maintains separate books of account in respect of the business and the donation received by it will not be used, directly or indirectly, for the purpose of the business.***

***i. The applicant shall comply with the provisions of the Income Tax Act, 1961 read with the Income Tax Rules, 1962.***

***j. The approval and the Unique registration number has been instantly granted and if, at any point of time, it is noticed that form for approval has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents required to be provided under sub-rule (1) or (2) of rule 11AA or by not complying with the requirements of sub-rule (3) or (4) of the said rule, the approval and Unique Registration Number (URN), shall be cancelled and the approval and URN shall be deemed to have never been issued or granted.”***

7. When we examine the questions raised by the assessee trust qua according of approval sought for under section 80G of the Act, granted by the Ld. PCIT subject to certain conditions in the light of the provisions contained in the scheme of Income Tax Act, 1961 consequent upon the registration under section 12A, approval under section 80G of the Act sought for by the assessee cannot be subjected to any condition as there is an “inbuilt mechanism” to be complied with by the assessee after getting registration/approval under section 12AA and 80G of the Act. Furthermore, compliance of the conditions for section 11 & 12 of the Act by the assessee is to be examined by the Assessing Office (AO) during the assessment

proceedings. The role of Ld. PCIT while according registration and approval under section 12A & 80G is only to make himself satisfied about the genuineness of the activities to be carried out by the assessee trust and compliance of such requirement of any other law for the time being in force by the trust or institution material to achieve its object and then to accord the registration and approval.

8. Moreover, assessee in this case has applied for approval under section 80G of the Act in form No.10AC as explained in column six of the impugned order i.e. 11-Clause (i) of first proviso to sub-section (5) of section 80G. Had the assessee moved to the PCIT under clause II & III of proviso 2 to section 80G then he would have been empowered to impose the condition. When in the instant case assessee has come up under clause I of sub section v of section 80G, no such condition can be imposed by the Ld. PCIT. So we are of the considered view that impugned order passed by the Ld. PCIT is not sustainable to the extent of imposing conditions in para 10(a) to (j) of the impugned order, in the eyes of law.

9. Consequently, approval granted by the Ld. PCIT under section 80G of the Act to the assessee is made absolute sans conditions laid down in para 10 of the impugned order. Hence, both the appeals filed by the assessee are allowed.

**Order pronounced in the open court on 29.09.2022.**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**  
Mumbai, Dated: 29.09.2022.

**Sd/-**  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.