

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCH “B” MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**  
**AND**  
**SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 3092/MUM/2022**  
**Assessment Year: 2022-23**  
**&**  
**ITA No. 3093/MUM/2022**  
**Assessment Year: 2022-23**

Braingyan Foundation,  
B/101, Mangalmurti Complex,  
New Thakurli Road, Balaji  
Nagar,  
Dombivali (East)-421201,  
Thane  
**PAN No. AADTB 7252 L**  
**Appellant**

CIT(Exemptions),  
Room No. 322, 3<sup>rd</sup> floor,  
**Vs.** Income Tax Office, PMT  
Building, Shankar Seth  
Road, Pune,  
Maharashtra-411037.  
**Respondent**

Assessee by	:	None
Revenue by	:	Dr. Mahesh Akhade, CIT-DR
Date of Hearing	:	08/02/2023
Date of pronouncement	:	13/02/2023

**ORDER**

**PER OM PRAKASH KANT, AM**

These appeals by the assessee are directed against two separate orders, both dated 31.10.2022 passed by the Ld. Commissioner of Income-tax (Exemptions), Pune (in short ‘the Ld. CIT’) rejecting the application of the assessee seeking



registration u/s 12AA and u/s 80G of the Income-tax Act, 1961 (in short 'the Act') respectively.

2. The grounds raised by the assessee in appeal (i.e. ITA No. 3092/Mum/2022) against rejection of registration u/s 12AA are reproduced as under:

*1. Order passed by the Learned Commissioner of Income-Tax, Exemption, Pune U/s 12AA (1)(b)(1) dated 30/09/202 [DIN:ITBA/EXM/F/EXM45/2022-23/1046535722(1)] is Bad in law as (a) it seems that the Judicial Mind has not been applied, (b) the Proper Reasonable Opportunity of being Heard has not been given & (c) Rejected only for the want of Note on the Activities of the Trust or Rebutting the same for its compliance and therefore the aforesaid Original Order passed may please be restored.*

3. The grounds raised by the assessee in appeal bearing ITA No. 3093/Mum/2022 challenging rejection u/s 80G of the Act are reproduced as under:

*"1. Order passed by the Learned Commissioner of Income-Tax, Exemption, Pune U/s 12AB rws 80G(5)(iii) dated 31/10/2022 (DIN:/TBA/EXM/F/EXM45/2022-23/1046535844(1)] is Bad in law as (a) it seems that the Judicial Mind has not been applied, (b) the Proper Reasonable Opportunity of being Heard has not been given & (c) Rejected only for the want of Note on the Activities of the Trust or Rebutting the same for its compliance and therefore the aforesaid Original Order passed may please be restored."*

4. We find that despite notifying for the hearing none attended on behalf of the assessee. On perusal of the record, we found that written submission filed by the assessee are already on record, we



rejected the adjournment application filed by the Ld Counsel of the assessee and proceeded to adjudicate the appeals ex-parte qua the assessee after hearing arguments of the ld. Department Representative.

5. As regards to rejection of registration u/s 12AA of the Act is concerned, the we find that the Ld. CIT observed as under:

*“2. The application was carefully perused and considered along with its annexures. Thereafter, certain informaiton / clarification was called for under the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 to verify the genuineness of activities of the assessee viz, date of commencement of activity, date of expiry of provisional registration, details of any other Law applicable for achievement of objectives and the proof of compliance of said Law, proof of identity of main trustees / directors, year-wise list of donations received, copies of annual accounts for the last 3 years or since inception whichever is later, note on activities carried out along with supporting credible evidence etc. vide notice issued through ITBA portal on 25/08/2022. The assessee was requested to submit his compliance by 09/09/2022. The assessee was specifically informed that in the event of failure to comply by the due date, the matter will be decided based on material available on record. The notice was duly served on the assessee through e-portal / email.*

*3. It is seen that the note on activities submitted by the assessee is general viz. conducting workshop for wellness student, couples, training workshop seminar kids, students, parents, help students/adults come out of depression and stress helps them use of social media to spread awareness etc. without giving any specific details of what actual activities were carried out, who were the beneficiaries, where the activity was carried out and without any supporting proof of his claim. In absence of any such tangible material in respect of activities being carried out, it is not possible to ascertain as*



*to whether the activities are in line with the objects of the trust / institution. Hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee.”*

6. As regards to the appeal against rejection of registration u/s 12AA of the Act, we find that the Ld. CIT has called for certain information for verification of genuineness of the activity of the assessee vide notice issued through Income-tax website portal dated 25/08/2022 and due-date for submission of the same was 09/09/2022 whereas the assessee complied the same on 13/09/2022, which is evident from the written submission filed. According to the Ld. CIT(A) note on activity submitted by the assessee was very general without giving any specific details as who were the beneficiaries and where the activities were carried out. We find that Ld. CIT has a straightway passed the order rejecting the registration of the assessee, without giving opportunity of being heard. In our opinion, this action of the Ld. CIT is not justified. If, he desired to go through the specific activities of the assessee, he should have called for further information from the assessee. The action of the Ld. CIT amounts to not providing adequate opportunity of being heard to the assessee. Accordingly, we set aside the finding of the Ld. CIT and restore the matter back to him for deciding afresh after providing adequate opportunity of being heard to the assessee. The grounds raised in the appeal are accordingly allowed for statistical purposes.



7. As regard to appeal against rejection of registration of the assessee u/s 80G of the Act is concerned, the Ld. CIT rejected the application for the reasons, **firstly**, for non-filing specific details of actual activities carried out and **secondly**, non-filing of Registration certificate u/s 12AA or 10(23C) of the Act. On perusal of the written submission filed by the assessee, we find that the assessee has filed general information regarding the genuineness of the activity in respect of the notice dated 30/08/2022 issued by the Ld. CIT on Income-tax Portal. The learned CIT was not satisfied with the said information and according to him the assessee should have filed specific details of the activities carried out by it including name of the beneficiaries and the places where activity was carried out. But the Ld. CIT without issuing any further notice, rejected the registration of the assessee under section 80G on this ground. The second reason for rejection of application u/s 80G by the learned CIT is non-registration under section 12AA of the Act. The appeal of the assessee against rejection of registration has already been set aside and restored back to the Ld CIT. In our opinion, the action of the Ld. CIT of rejection of application u/s 80G of the Act, is in violation of the principle of natural justice. Therefore, in the interest of substantial justice, we feel it appropriate to restore this issue back to the Ld. CIT for deciding afresh after providing adequate opportunity of hearing to the assessee. The ground of appeal of the assessee is according allowed for statistical purposes.



8. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

**Order pronounced in the open Court/under Rule 34(4) of the ITAT Rules, 1963 on 13/02/2023.**

**Sd/-  
(RAHUL CHAUDHARY)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 13/02/2023  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**