

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

**BEFORE SHRI KULDIP SINGH, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO.2972/MUM/2022 (A.Y: 2022-23)

Akhil Padmashali Samaj Room No. 2/3, Building No. 45 Kamathipura, 4 th Lane Mumbai - 400008 PAN: AAATA4387Q	v.	CIT (Exemption) Room No. 601, 6 th Floor Cumballa Hill, MTNL TE Building Dr. Gopalrao Deshmukh Marg Pedder Road, Mumbai - 400026
(Appellant)		(Respondent)

Assessee Represented by	:	None
Department Represented by	:	Smt Shailja Rai
Date of Hearing	:	10.01.2023
Date of Pronouncement	:	23.02.2023

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Exemptions), Mumbai [hereinafter in short "Ld.CIT(E)"] dated 27.09.2022.

2. Assessee has raised following grounds in its appeal: -

1. On the facts and circumstance of the case and in law the Ld.CIT (Exemption) has erred in law by passing an Order rejecting the Application filed in Form 10AB seeking approval under Section 80G of the Act. The Ld. Assessing Officer has not given us sufficient time to provide the required information as was mentioned in the Notice and passed the Order without giving opportunity of being heard to the appellant and by not following the Principal of Natural Justice of Law.

2. The Appellant reserves its right to add, amend, alter or delete any of the grounds of appeal.

3. At the outset, we observe that in spite of issue of notice none appeared on behalf of the assessee nor any adjournment was sought. Therefore, we proceed to dispose of this appeal with the assistance of Ld.DR.

4. At the time of hearing, Ld. DR brought to our notice facts of this case and for the sake of clarity it is reproduced below: -

"1. The Assessee is a Trust carrying on Charitable Objective for the benefit of the Society. The Assessee has filed application in Form 10AB seeking approval under Section 80G of the Act. The CPC Bengaluru has granted Provisional Approval under Section 80G(5) of the Act in Form 10AC Dated 15.10.2021.

2. The Assessee has received the Notice issued by CIT (Exemptions), Mumbai dated 23.07.2022 vide Application No. CIT (Exemptions), MUMBAI/2022- 23/12AA/10383 and DIN No. ITBA/EXM/F/EXM43/2022-23/1044027236(1) whereby the competent authority required the assessee to submit Form 10 AC on or before 26.07.2022. The Assessee has successfully submitted to the Assessing Officer Form 10 AC on 25.07.2022 within the due date

of Notice vide Acknowledgement Number 981984901250722 and Notice / Communication Reference ID 100049983031.

3. However, the Ld. CIT (Exemptions) required some additional documents of which requirement List was sent with Notice Dated 29.08.2022 vide Application No. CIT (Exemptions), MUMBAI/2022-23/12AA/10383 and DIN No. ITBA/EXM/F/EXM43/2022-23/1044027236(1), the documents were to be submitted to the competent authority on or before 02.09.2022. Th Assessee has applied for adjournment on 02.09.2022 on the grounds of Gathering resources from multiple sources requires time as it was impossible to furnish the required information the given time frame.

4. The Assessee was in the view that the Ld. CIT (Exemptions) will respond the Adjournment either in Partial or Full but the Adjournment request left unattended and on the contrary without any further notice or information, Order has been passed by the CIT (Exemption rejecting the Application under Section 80G of the Act.

5. The Assessee has received the Order issued by CIT (Exemptions), Mumbai dated 27.09.202 vide DIN No. ITBA/EXM/F/EXM45/2022- 23/1045989333(1) whereby it stated that "On Verification of the application in Form 10AB filed by the Assessee, it was found that the application was not complete, and all the documents required to be accompanying the application were not furnished."

6. However, the requisite information which was required initially was filed alongwith the application and later additional information asked in Notice dated 29.08.2022 vide DIN No. ITBA/EXM/F/EXM43/2022-23/1045003546(1) required gathering resources from multiple sources which was not possible in the time limit which was provided. The Assessee was neither given further chance to substantiate his stance on the same. The Trust and its Members are in deep grave and the order has hurt the sentiments of the member due to this act of the Ld CIT (Exemption) of not giving the Opportunity to substantiate the stance. The Department has without following the principle of Natural Justice of Law passed the order rejecting the application filed by the Assessee and the Department should have given the assessee a sufficient opportunity to substantiate and produce the facts in front of the eye of competent authority."

5. Ld. DR submitted that the assessee is supposed to file all the relevant information along with the application for approval. However, the submissions made by the assessee clearly indicate that the assessee has not submitted all the relevant information. It is a fit case for rejection of the registration u/s. 80G of the Act.

6. Considered the submissions of the Ld.DR and material placed on record and we observe from the grounds of appeal raised by the assessee that assessee has filed requisite information initially along with the application and further, it was stated that additional information was asked in notice dated 29.08.2022 requiring certain informations which assessee could not gather the same in time and however, observed that assessee was not given proper opportunity to substantiate the information required by the Ld.CIT(E), Mumbai. For the sake of overall justice, we are inclined to remit this issue back to the file of the Ld.CIT(E) to give one more opportunity to the assessee to comply with the informations sought through notice dated 29.08.2022. Therefore, we remit this issue back to the file of the Ld.CIT(E) with the direction to give a proper opportunity of being heard to the assessee and consider the application filed by the assessee in Form No. 10AC as per law. The assessee also advised to

comply to file the relevant informations sought by Ld.CIT(E) and comply the same in time. Accordingly, appeal filed by the assessee is allowed for statistical purpose.

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

Order pronounced in the open court on 23rd February, 2023

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER
Mumbai / Dated 23/02/2023
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum