

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, AM AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 576/Mum/2023  
(Assessment Year: 2023-24)

Dr. Shivajirao Jondhale Research Foundation Shiveneri Building, Mahatma Phule Road, Kalyan, Vishunagar S.O., Thane – 421 202	Vs.	CIT, Exemption No. 322, 3 <sup>rd</sup> Floor, ITO, PMT Building, Shankar Seth Road, Pune-411 037
PAN/GIR No. AADTD 6635 R		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	Shri Tanzil Padvekar & Shri Gopal Sharma
<b>Revenue by</b>	:	Dr. Kishor Dhule
<b>Date of Hearing</b>	:	25.04.2023
<b>Date of Pronouncement</b>	:	26.04.2023

**ORDER**

**Per Kavitha Rajagopal, JM:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax Exemption, Pune (‘Id.CIT(E) for short), relevant to the Assessment Year (‘A.Y.’ for short) 2023-24.

2. The assessee has challenged the grounds of non granting registration u/s. 80G of the Income Tax Act, 1961 (the Act for short) on the ground that the assessee has not registered u/s. 12AB r.w.s. 12A of the Act. The assessee has also challenged the grounds on violation of principle of natural justice where the assessee was not given reasonable opportunity of being heard before the Id. CIT(E).

3. Briefly stated the assessee trust is said to have filed application before the Id. CIT(E) in Form No. 10AB as per the provisions of clause (iii) of first proviso to section 80G(5) of the Act. The Id. CIT(E) rejected the application of the assessee for the reason that the assessee's registration u/s. 12AB of the Act has been rejected vide order dated 27.10.2022 and, hence, the assessee is said to have not fulfilled the condition (i) of section 80G(5) of the Act.

4. Aggrieved, the assessee is in appeal before us challenging the order of the Id. CIT(E).

5. The learned Authorised Representative (Id. AR for short) for the assessee contended that the assessee may be given one more opportunity for filing of details sought for by the Id. CIT(E). The Id. AR further stated that the Tribunal vide order dated 17.02.2023 has remanded the issue of registration u/s.12A/12AB of the Act to the Id. CIT(E) for giving the assessee another opportunity to furnish the details before the Id. CIT(E). The Id. AR submitted that this issue may be remanded back to the file of the Id. CIT(E) for fresh consideration.

6. The learned Departmental Representative (Id. DR for short) for the Revenue, on the other hand, had nothing to controvert the same.

7. We have heard the rival submissions and perused the materials available on record. It is observed that the Id. CIT(E) has issued e-notice to the assessee for the purpose of uploading informations/details pertaining to the date of commencement of the 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 receipt, note on activities carried out along with the supporting evidences, etc. was sought for by the Id. CIT(E). The Id. CIT(E) is said to have rejected the registration of 80G for the reason that the assessee has not complied with the said notices and that the assessee has not been registered u/s. 12AB r.w.s. 12A(1)(ac)(i)/12A(1)(ac)(iii) of the Act nor was it approved u/s.10(23C) read with clause (i)/(iii) of first proviso to the said section and that the assessee's case was not covered under the exclusions provided u/s. 80G(5)(i) of the Act. The Id. CIT(E) has also stated that the assessee is not a regimental fund nor a non-public fund established by the armed forces of the union for the welfare of the past and the present members of such forces or dependents. The Id. CIT(E) rejected the assessee's registration u/s. 80G on the said grounds. We are of the considered opinion that the assessee is to be given one more opportunity to present the details sought for by the Id. CIT(E) as on the principles of natural justice. We remand this issue back to the file of the Id. CIT(E) for denova consideration on merits of the assessee's submission.

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

*Order pronounced in the open court on 26.04.2023*

Sd/-

(Om Prakash Kant)  
Accountant Member

Mumbai; Dated : 26.04.2023

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)  
Judicial Member

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai