

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.368/Bang/2023
Assessment year : N.A.

Hazrath Shaikh Minhajuddin Ansari Kallerawan Charitable Trust, PO Box No.104, KST Campus, K C T Road, Qamarul Islam Colony, Kalaburagi – 585 104. PAN: AAATH 4631A	Vs.	The Commissioner of Income -Tax (Exemptions), Bengaluru – 560 027.
APPELLANT		RESPONDENT

Appellant by	:	Shri Abhijit Bapu, Advocate
Respondent by	:	Shri D.K. Mishra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	22.06.2023
Date of Pronouncement	:	27.06.2023

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal by the assessee is against the order DIN & Notice No.ITBA/EXM/F/EXM45/2022-23/1049752418(1) of the CIT (Exemptions) Bangalore [CIT(E)] dated 14.2.2023.

2. At the outset, there is a delay of 28 days in filing the appeal by the assessee before the Tribunal. In this regard, the assessee has filed application for condonation of delay along with affidavit and submitted

that the responsible person, Secretary of the assessee was not available, therefore appeal could not be filed in time. He relied on the judgment of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition v. Mst. Katiji & Ors. (1987) 167 ITR 471 (SC)* and other judgments for condonation of delay. After hearing both the parties, we are of the view that there is reasonable cause for delay in filing the appeal and following the Hon'ble Supreme Court judgment cited supra, we condone the delay in filing the appeal.

3. The sole and substantive ground raised by the assessee is for approval u/s. 80G(5) of the Income-tax Act, 1961 [the Act]. The Id. AR submitted that the Id. CIT(E) did not give proper opportunity to the assessee for filing requisite documents for substantiating its commencement of its activities for general public utility. He submitted that the Id. CIT(E) has rejected the application in a hasty manner and the submissions made by the assessee are not properly considered. He further submitted that the assessee has been carrying on the activities for the last 40 years and registration u/s. 12 has also been granted earlier and application was only for approval u/s. 80G of the Act. He therefore requested that the matter may be sent back to the Id. CIT(E) to substantiate its case before him. On the other hand, the Id. DR opposed this request and submitted that before the CIT(E), the assessee could not substantiate its activities as required by the provisions of the Act and the assessee was unable to produce any credible evidence to the satisfaction of the Id. CIT(E).

4. After hearing both the sides, perusing the entire material on record and the orders of the lower authorities, as per the submissions of the Id. AR, the assessee is running its activities for the last 40 years, it has been granted registration u/s. 12A of the Act and the assessee has sought for approval u/s. 80G of the Act. In the interest of justice, we remit the matter to the Id. CIT(E) for fresh consideration in accordance with law and assessee is directed to file the requisite documents for substantiating its claim. The CIT(E) is further directed to grant three effective opportunities of being heard to the assessee.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 27th day of June, 2023.

Sd/-

(GEORGE GEORGE K)
VICE PRESIDENT

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 27th June, 2023.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.