

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'H': NEW DELHI)**

**BEFORE SHRI KUL BHARAT JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA Nos:- 868 & 869/Del/2023**

Tribal Health Collaborative Foundation, New Delhi.	Vs.	Commissioner of Income-tax (Exemption), Delhi.
<b>PAN No:</b> AAICT6868N		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Ankit Agarwal, CA  
**Revenue by** : Shri Gurpreet Shah Singh, Sr. DR

**Date of Hearing** : 05.06.2023  
**Date of Pronouncement** : .06.2023

**ORDER**

**PER KUL BHARAT, JM**

These two appeal by the Assessee are directed against the order of Ld. Commissioner of Income Tax (Exemption), Delhi vide order dated 31.01.2023. First we take up **ITA No. 869/Del/2023**. The Assessee has raised the following grounds of appeal:

***"Ground No. 1: Rejection of Registration u/s 12A(1)(ac)(iii) of the Act***

- 1. On the facts and in circumstances of the case and in law, the Ld. CIT(E), Delhi erred in rejecting the application made by the Appellant on September 29, 2022 in Form 10AB for grant of registration u/s 12A(1)(ac)(iii) of the Act on the basis that the Appellant did not comply with the notices issued.*

2. *The Appellant submits that the Appellant was not granted proper opportunity as notices issued by CIT(E) was being received on a different email id.*
3. *The Appellant prays that the order passed by the Ld. CIT(E) be quashed/set aside and the Appellant should be granted a fresh opportunity and matter be restored to CIT(E).*

**GENERAL**

*The Appellant craves leaves to add to, alter and/or amend any of the above grounds of appeal on or before the date of hearing."*

2. The facts given rise to the present appeal are that, the assessee filed an application on 29.09.2022 in Form 10AB for registration U/s 12A(1)(ac)(iii) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The Ld. CIT(E) issued a questionnaire on 22.11.2022 with request to furnish the certain details / documents/ clarification in support of his claims for registration U/s 12A(1)(ac)(iii) of the Act. It is observed by Ld.CIT(E) no one attended the proceedings. Therefore, on account of non-compliance, the Ld. CIT(E) rejected the application of the assessee.

3. Aggrieved against this, the assessee is in appeal before this Tribunal.

4. At the outset, the Ld. Counsel for the assessee submitted that the assessee was not given adequate opportunity of being heard and further he reiterated the submissions made in the application, which is reproduced as under for the sake of clarity:

**"A. Facts of the case:**

*1. The Appellant is a registered as a Section 8 Private Company limited by Guarantee under the Companies Act, 2013 to undertake, carry out, promote and / or sponsor Medical relief and Advancement of any other objects of general public utility. The registered office of the Company is at Office No. 321, Tower B, DLF Towers, Jasola, Delhi-110 025.*

2. The Appellant was granted provisional registration u/s. 12A(1)(ac)(vi) of the Act by Ld. Principal Commissioner of Income Tax/Commissioner of Income Tax by issuing Form 10AC dated August 31, 2021 having Unique Registration No. AAICT6868NE20210. The copy of the Form 10AC is attached herewith as **Annexure B**.

3. The Appellant applied for final registration u/s. 12A(1)(ac)(ii) of the Act by filing Form 10AB on September 29, 2022 having Acknowledgement No. 569083600290922. The copy of the Form 10AB is attached herewith as **Annexure C**.

4. However, the Ld. Commissioner of Income Tax (Exemption), Delhi (CTT (E) vide order dated January 31, 2023 passed u/s. 12AB(1)(b)(i)(B) of the Act rejected the aforesaid application of the Appellant filed on September 29, 2022 in Form 10AB for granting of final registration u/s 12A(1)(ac)(iii) of the Act on the alleged ground that the Appellant has failed to file details/information required by the Ld. CTT (E) sought in Notices dated November 22, 2022, December 8, 2022 and January 3, 2023. The copy of the said order is attached herewith as **Annexure D**.

5. The Appellant aggrieved by the aforesaid order of the Ld. CIT(E) has filed the captioned appeal before the Hon'ble Income Tax Appellate Tribunal, Delhi.

6. The Appellant submits that the registered e-mail id of the Appellant on the income tax portal ([www.incometax.gov.in](http://www.incometax.gov.in)) is Piramal taxation37@piramal.com. The copy of the screenshot of the profile of the Appellant on the income tax portal is attached herewith as Annexure E and the relevant extract of the Income Tax Return filed for A.Y. 2022-23 reflecting the the registered email id is attached herewith as **Annexure F**.

However, the Ld. CIT (E) had sent the aforesaid Notices dated November 22, 2022, December 8, 2022 and January 3, 2023 to E-mail ID: Narayanan iyer@piramalfounadtion.org belonging to Mr. Narayanan Venkatraman Iyer, ex-director of the Appellant instead of sending the notices on the registered Email ID of the Appellant. The copy of the screenshot of income tax portal showing that the said notices were send to Mr. Narayanan Venkatraman Iyer's email id is attached herewith as **Annexure G**.

Mr. Narayanan Venkatraman Iyer was a director of the Appellant who had resigned and left the Appellant Foundation on January 24, 2022, following which his e-mail id was also deleted. The copy of the Form DIR-12 filed along with relevant attachment with the Registrar of Companies on February 2, 2022, is attached herewith as **Annexure H**.

9. Accordingly, the Appellant submits that the aforesaid notices dated November 22, 2022, December 8, 2022 and January 3, 2023 issued by Ld. CIT (E) were never properly served on the Appellant and accordingly, the

*Appellant was not able to respond to the said notices and file the details/information required by the Ld. CIT (E).*

***B. Prayer:***

*In view of the foregoing facts, the Appellant prays that:*

*a. The rejection of registration u/s. 12A(1)(ac)(iii) of the Act will lead to grave financial hardship and hindrances in its charitable activities and accordingly, an early hearing of the captioned appeal be granted;*

*b. The Appellant also prays that the order passed by the Ld. CIT(E) be quashed/set aside and the Appellant should be granted a fresh opportunity and matter be restored to CIT(E)..”*

5. On the other hand, Ld. DR supported the orders of the authorities below.

6. We have heard the rival contentions, and perused the materials available on record. There is no dispute with regard to the fact that the assessee was given provisional certificates as Form 10AB is enclosed with the submissions of Paper Book. It is also seen that the Ld. CIT(E) had given opportunity at two occasions for furnishing the requisite details. Therefore, looking to the facts of the present case and sub-serve the principle of natural justice, we deem it fit to set aside the impugned order and restore the application to Ld. CIT(E) to decide it afresh, after giving adequate opportunity of hearing to the assessee. The grounds raised by the assessee are allowed for statistical purposes. The Appeal of the assessee is allowed for statistical purposes.

7. Now we take up **ITA No. 868/Del/2023**. The assessee has raised the following grounds of appeal:

*"Ground No. 1: Rejection of grant of approval u/s 80G(5)(iii) of the Act*

- 1. On the facts and in circumstances of the case and in law, the Ld. CIT(E), Delhi erred in rejecting the application made by the Appellant on September 29, 2022 in Form 10AB for grant of approval under clause (iii) of first proviso to sub section (5) of Section 80G of the Act on the basis that the Appellant did not comply with the notices issued.*
- 2. The appellant submits that the Appellant was not granted proper opportunity as notices issued by CIT(E) was being received on a different email-id.*
- 3. The Appellant prays that the order passed by the Ld. CIT(E) be quashed / set aside and the Appellant should be granted a fresh opportunity and matter be restored to CIT(E)."*

7.1 The brief facts of the case are that the assessee had filed an application in Form 10AB for grant of approval under clause (iii) of first proviso to sub section (5) of Section 80G of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The said application was rejected on the basis that the assessee failed to furnish the requisite details and the order was passed ex-parte to the assessee.

8. Aggrieved against this, the assessee is in appeal before this Tribunal.

9. The Ld. Counsel for the assessee reiterated the submissions made in the application, which is reproduced as under for the sake of clarity:

***"A. Facts of the case:***

*1. The Appellant is a registered as a Section 8 Private Company limited by Guarantee under the Companies Act, 2013 to undertake, carry out, promote and / or sponsor Medical relief and Advancement of any other objects of general public utility. The registered office of the Company is at Office No. 321, Tower B, DLF Towers, Jasola, Delhi-110 025.*

*2. The Appellant was granted provisional registration under Clause (iv) of first proviso to section 80G(5) of the Act by Ld. Principal Commissioner of Income Tax / Commissioner of Income Tax by issuing Form 10AC dated October 2, 2021 having Unique Registration No. AAICT6868NF20218. The copy of the Form 10AC is attached herewith as **Annexure B**.*

3. The Appellant applies for final registration under Clause (ii) of first proviso in section (5) of the Act by filing Form 10All on September 29, 2022 having Acknowledgement No. 573565110290922. The copy of the Form 10A13 is attached herewith as **Annexure C**

4. However, the Ld. Commissioner of Income Tax (Exemption), Delhi (CIT (13) vide order dated January 31, 2023 passed under Clause (i)(b)(B) of second proviso to section 80KG) of the Act rejected the aforesaid application of the Appellant filed on September 29, 2022 in Form 10AB for granting of final registration under Clause (iii) of first proviso to section 800(5) of the Act on the alleged ground that the Appellant has failed to file details/information required by the Ld. CIT (E) sought in Notices dated November 22, 2022, December 8, 2022 and January 3, 2023. The copy of the said order is attached herewith as **Annexure D.**

5. The Appellant aggrieved by the aforesaid order of the Ld. CIT(E) has filed the captioned appeal before the Hon'ble Income Tax Appellate Tribunal. Delhi.

6. The Appellant submits that the registered e-mail id of the Appellant on the income tax portal ([www.incometax.gov.in](http://www.incometax.gov.in)) is Piramal taxation37@piramal.com. The copy of the screenshot of the profile of the Appellant on the income tax portal is attached herewith as **Annexure E** and the relevant extract of the Income Tax Return filed for A.Y. 2022-23 reflecting the registered email id is attached herewith as **Annexure F.**

7. However, the Ld. CIT (E) had sent the aforesaid Notices dated November 22, 2022, December 8, 2022 and January 3, 2023 to e-mail id: Narayanan iyer@piramalfounadtion.org belonging to Mr. Narayanan Venkatraman Iyer, ex-director of the Appellant instead of sending the notices on the registered Email ID of the Appellant. The copy of the screenshot of income tax portal showing that the said notices were sent to Mr. Narayanan Venkatraman Iyer's email id is attached herewith as **Annexure G.**

8. Mr. Narayanan Venkatraman Iyer was a director of the Appellant who had resigned and left the Appellant Foundation on January 24, 2022, following which his e-mail id was also deleted. The copy of the Form DIR-12 filed along with relevant attachment with the Registrar of Companies on February 2, 2022, is attached herewith as **Annexure H.**

9. Accordingly, the Appellant submits that the aforesaid notices dated November 22, 2022, December 8, 2022 and January 3, 2023 issued by Ld. CIT (E) were never properly served on the Appellant and accordingly, the Appellant was not able to respond to the said notices and file the details/information required by the Ld. CIT (E).

**B. Prayer:**

*In view of the foregoing facts, the Appellant prays that:*

*a. The rejection of registration under Clause (iii) of first proviso to section 80G(5) of the Act will lead to grave financial hardship and hindrances in its charitable activities and accordingly, an early hearing of the captioned appeal be granted;*

*b. The Appellant also prays that the order passed by the Ld. CIT(E) be quashed/set aside and the Appellant should be granted a fresh opportunity and matter be restored to CIT(E)."*

10. On the other hand, the Ld. DR supported the orders of the authorities below.

11. We have heard the rival contentions and perused the materials available on record. It is seen from the record that the Ld. CIT(E) had given opportunity on two occasions and dismissed the application on account of non-compliance by the assessee. Therefore, considering the totality of the facts and to sub-serve the principle of natural justice, we hereby set aside the impugned order and restored the issue to the file of the Ld. CIT(E) to decide it afresh, after giving adequate opportunity of hearing to the assessee. The grounds raised by the assessee are allowed for statistical purposes. The Appeal of the assessee is allowed for statistical purposes.

12. In the result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 27<sup>th</sup> June, 2023.

**Sd/-**

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

**Sd/-**

**(KUL BHARAT)**  
**JUDICIAL MEMBER**

Dated: 27/06/2023.  
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI