

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

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.3004/DEL./2022

Pragyawan Foundation,
118, Crema Mahagun Mansion 1,
Ghaziabad – 201 014 (Uttar Pradesh).

vs. ITO, Exemption,
Ghaziabad.

(PAN : AADTP8886E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Rohan Sogani, CA
REVENUE BY : Shri Sanjay Gupta, CIT DR

Date of Hearing : 22.08.2023

Date of Order : 24.08.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal filed by the assessee is directed against the order of Id.

CIT (Exemption), Lucknow dated 27.10.2022.

2. Grounds of appeal taken by the assessee read as under :-

“1. In the facts and circumstances of the case and in law the Id. CIT (Exemptions) has erred in denying the approval u/s 80G(5)(ii)(b)(8) of Income Tax Act, 1961. The action of Id. CIT (Exemptions) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by granting the approval u/s 80G(5)(ii)(b)(8) of Income Tax Act, 1961.

2. In the facts and circumstances of the case and in law, Id. CIT (Exemption) has grossly erred in rejecting the application for approval under Section 80G(5)(ii)(b)(B) of the Income Tax Act, 1961, without providing adequate opportunity to the assessee trust to make requisite submissions. The action of the Id. CIT (Exemption) is illegal, unjustified, arbitrary and against the facts of the case. Approval may please be granted under Section 80G(5)(ii)(b)(B).”

3. The assessee had filed an application dated 29.04.2022 for registration under section 80G(5)(iii) of the Income-tax Act, 1961 (for short 'the Act') in Form No.10AB. Ld. CIT (E) noted that several notices were issued for the assessee's compliance but the assessee did not comply. Accordingly, Id. CIT (E) concluded as under :-

“3. As the application has been submitted under sub clause (iii) of 80G(5) and accordingly an enquiry letter requiring such documents and information was sent to verify the genuineness of the activities as well as charitable nature and commencement of the activities. In absence of any reply charitable object and genuineness of the charitable activities of the assessee trust could not be proved. Hence the application of the above mentioned society is treated as "non-maintainable.

4. Accordingly the application filed by the assessee is hereby 'rejected'. However, no adverse inference is drawn against the assessee and rejection of its application shall not affect the provisional approval if any, granted u/s 12A/80G(5) of the Act, by the CPC.”

4. Ld. Counsel for the assessee prayed that very short notices have been given and he further prayed that one more opportunity may be granted to the assessee before the Id. CIT (E).

5. Upon careful consideration and in the interest of justice, we remit the issue to the file of ld. CIT (E). Ld. CIT (E) will consider the issue afresh after providing the assessee an opportunity of being heard.

6. In the result, the assessee's appeal stands allowed for statistical purposes.

Order pronounced in the open court on this 24th day of August, 2023.

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 24th day of August, 2023
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (Exemption), Lucknow.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**
