

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

**BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No1962/M/2023
Assessment Year: 2022-23**

M/s. Public Health Guard India Trust, BK No.A-54, Room No.323, Ground Floor, Near Bank of Baroda, Ulhasnagar – 421 001 PAN: AAATP5020D	Vs.	CIT Exemption, Room No.322, 3 rd Floor, Income Tax Office, PMT Building, Shankar Seth Road, Pune – 411 037
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Smt R.M. Madhavi, D.R.

Date of Hearing : 05 . 10 . 2023
Date of Pronouncement : 10 . 11 . 2023

O R D E R

Per : Kuldip Singh, Judicial Member:

The appellant, M/s. Public Health Guard India Trust (hereinafter referred to as ‘the assessee’) by filing the present appeal, sought to set aside the impugned order dated 30.03.2023 passed by Commissioner of Income Tax (Exemption), Mumbai [hereinafter referred to as the CIT(E)] qua the assessment year 2022-23 on the grounds inter-alia that :-

“1. On the facts and circumstances of the case, the Learned Commissioner of Income Tax Exemption, Pune has erred in rejecting

the application filed by the appellant Trust for grant of exemption u/s 80G of the Income-tax Act, 1961.

2. On the facts and circumstance of the case the Learned Commissioner of Income Tax Exemption, Pune has ignored the evidences of activities undertaken placed on his record without assigning any proper reason.

3. The appellant craves leave to add, alter, amend or delete any or all of the grounds of Appeal at any time.”

2. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : the assessee being a trust registered under section 12A of the Income Tax Act, 1961 (for short 'the Act') has filed an application in form number 10AB under clause (iii) of first proviso to sub section 5 of section 80G of the Act which was rejected by the Ld. CIT(E) on failure of the assessee to furnish "supporting credible evidence in respect of activities claimed to have been carried out so as to prove the genuineness of the activities of the assessee".

3. Feeling aggrieved with the impugned order passed by the Ld. CIT(E) the assessee has come up before the Tribunal by way of filing present appeal.

4. Notice of the appeal was issued to the assessee who was duly served but failed to appear before the Tribunal. On the last date of hearing assessee sent an application for adjournment which was rejected on the ground that it was unnecessarily delaying the disposal of the appeal because perusal of the impugned order shows that the same has been passed without giving any adequate opportunity of being heard to the assessee.

5. We have heard the Ld. Departmental Representative for the Revenue, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and case law relied upon.

6. Undisputedly the assessee being a trust has already been granted registration under section 12A of the Act as well as provisional approval under section 80G subject to fulfilling the conditions laid down in the order dated 07.04.2022. It is also not in dispute that the application moved by the assessee for grant of approval under section 80G has been rejected for want of credible evidence sought to be brought on record by the Ld. CIT(E).

7. In the backdrop of the aforesaid undisputed facts when we examine the order passed by the Ld. CIT(E) it has come on record that the assessee has not been provided with an adequate opportunity of being heard after submitting certain evidence. If the same was not complete the assessee should have been given another opportunity to file the requisite evidence. But from the order it is not clear if any further opportunity was given to the assessee or not.

8. The Ld. CIT(E) stated to have noticed various discrepancies in the evidence brought on record by the assessee but has not discussed on record any such discrepancies, making the entire order cryptic. In these circumstances we are of the considered view that the impugned order is not sustainable in the eyes of law and is required to be set aside. Consequently the impugned order passed by the Ld. CIT(E) is set aside to be passed afresh after providing adequate opportunity of being heard to the assessee.

9. Resultantly the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 10.11.2023.

**Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER**

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Mumbai, Dated: 10.11.2023.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.