

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"G" BENCH, MUMBAI**

**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2918/MUM/2023  
(Assessment Year: 2023-2024)**

**M/s Gulabi Krishna Bhandary Charitable Trust,**

Shop No. 11, Green Vile,  
Off Lokhandwala Complex,  
Near Millet Nagar,  
Andheri (West), Mumbai - 400058  
[PAN: AAETG0905A]

..... **Appellant**

**Commissioner of Income Tax  
(Exemptions), Mumbai,**

601, 6<sup>th</sup> Floor, Gumballa Hill,  
MTNL TE Building, Peddar Road,  
Dr. Gopalrao Deshmukh Marg,  
Cumbala Hill, Mumbai - 400026

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : None  
For the Respondent/Department : Shri Prashant Mahajan

**Date**

Conclusion of hearing : 14.12.2023  
Pronouncement of order : 21.12.2023

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal is directed against the order, dated 23/06/2023 passed by the Ld. Commissioner of Income Tax (Exemptions), Mumbai [hereinafter referred to as 'the CIT(E)'] rejecting the application filed by the Assessee for seeking final registration/approval under Section 80G(5)(iii) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'].
2. The Appellant has raised following grounds of appeal:

- " (1) On the basis of facts and circumstances of the case, the Learned Commissioner of Income Tax (Exemptions), Mumbai ["CIT(Exemptions)"] erred in passing rejection order in form 10AD under Clause (vi) of Subsection (5) of Section 80G of The Income Tax Act without appreciating the details and documents submitted by your appellant within prescribed due dates.*
- (2) On the basis of facts and circumstances of the case, Learned CIT (Exemptions) erred in confirming rejection of registration without giving your appellant any opportunity of being heard or personal hearing before passing the order in Form 10AD which is in violation of the Principle of Natural Justice.*
- (3) On the basis of facts and the circumstances of the case, the Learned CIT (Exemptions) erred in ignoring the technical glitches of the Income Tax Portal with respect to the non-visibility of submissions filed by your appellant and concluding the case without giving any opportunity of personal hearing thereto for substantiating its contentions."*

3. When the appeal was taken up for hearing, none was present on behalf of the Appellant. On perusal of the grounds raised in the present appeal reproduced in paragraph 2 above, we proceeded to adjudicate the appeal after hearing the Ld. Departmental Representative on the basis of documents placed on record by the Appellant along with the Memorandum of Appeal.
4. On perusal of record, it emerges that the Appellant is a Public Charitable trust registered under The Maharashtra Public Trust Act, 1950 having Registration No.: E-0036750(GBR). The Appellant was incorporated on 08/03/2022 with the main objective of serving the community at large through the conduct of Social and Charitable activities. The Appellant had filed application for Provisional Registration under First Proviso to Section 80G (5) of Act, dated 10/09/2022, in Form 10A on the basis of which the Appellant was granted provisional registration under Section 80G of the Act vide,

Order for Provisional Approval, dated 17/09/2022, in Form 10AC. Thereafter, the Appellant filed an application for Final Registration in accordance with Section 80G(5)(iii) of the Act, dated 21/12/2022, in Form 10AB within 6 months from the date of commencement of trust activities. Pursuant to the aforesaid registration application, the Appellant received Notice dated 20/05/2023, under Section 80G(5) of the Act asking for various details / pointers / explanations. The Appellant initially sought time for compiling and collating the documents and details. Thereafter, on 07/06/2023, the Appellant filed response to the notice dated 20/05/2023 placing on record the submission and various details and documents called for by the CIT(E) which was uploaded electronically [Acknowledgement No. 209527281070623]. Subsequently, another notice, 07/06/2023, was issued by the CIT(E). On perusal of grounds raised in the appeal, it emerges that it is the case of the Appellant that (a) due to technical glitches of the Income Tax Portal the Appellant was unable to download the aforesaid notice; (b) the details/documents specified in the notice dated 07/06/2023 were identical to those stated in notice dated 20/05/2023; and (c) vide order, dated 23/06/2023, the CIT(E) passed order rejecting the application without verification and consideration of the details and documents submitted by the Appellant on 07/06/2023. Therefore, the order impugned was liable to be set aside as the same was passed without granting the Appellant any opportunity of being heard and in violation of principle of natural justice. On the other hand, the Ld. Departmental Representative appearing before us submitted that the Appellant had failed to comply with the notices issued on 25/05/2023 and 07/06/2023. He submitted in the notice dated 25/05/2023, the Appellant was granted time till 02/06/2023 to file the reply whereas the Appellant filed reply on 07/06/2023. The Ld. Departmental

Representative supported the order passed by the CIT(E) and submitted that there was no violation of principle of natural justice.

5. We have considered the submissions advanced by the Ld. Departmental Representative and perused the material on record. We note that the CIT(E) has rejected the application made by the Appellant for registration/approval under Section 80G(5)(iii) of Act holding as under:

*"The assessee has made no compliance to the terms of the above notices. Approval under section 80G is to be accorded to the applicant after satisfying oneself of the genuineness of activities and the compliance of all the conditions mentioned in section 80G(5) clauses (i) to (v) of the Act. In the absence of necessary compliance by the Applicant, I am unable to arrive at a satisfaction on these parameters. As such I am left with no other option but to reject the application seeking approval under section 80G of the Act, as the limitation to decide on the application is 30.06.2023."*

6. On perusal of above, it is clear that the CIT(E) had not taken into consideration the submissions, and the details/documents furnished by the Appellant vide reply letter, dated 07/06/2023, filed in response to notice, dated 20/05/2023. A perusal of notice dated 20/05/2023 and 07/06/2023 shows that identical details/documents were sought from the Appellant. Thus, we find merit in the contentions advanced on behalf of the Appellant that the CIT(E) has rejected the application without taking into consideration details/documents submitted by the Appellant. Accordingly, keeping in view the facts and circumstances of the present case, we deem it appropriate to set aside the order dated 23/06/2023, passed by the CIT(E) and restore the application back to the file of CIT(E) with the directions to decide the same afresh as per law after giving the Appellant a reasonable opportunity of being heard. In terms of the

aforesaid, Ground No. 1 to 3 raised by the Appellant are allowed for statistical purposes.

7. In result, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 21.12.2023.

**Sd/-**  
**(Prashant Maharishi)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 21.12.2023  
*Alindra, PS*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,  
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai