

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manjunatha, G., Accountant Member  
आयकर अपील सं./I.T.A. No.676/Chny/2023

Thiaga Sastha Trust,  
Plot No. 34, Periyava Illam Veda  
Vidjhyarthi Nivas, Bhagyalakshmi  
Nagar, Madambakkam,  
Chennai 600 073.

Vs. The Commissioner of Income  
Tax (Exemptions),  
Chennai.

**[PAN:AAATT5309B]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Balasubramanian, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri Nilay Baran Som, CIT  
सुनवाई की तारीख/ Date of hearing : 07.02.2024  
घोषणा की तारीख /Date of Pronouncement : 21.02.2024

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Exemptions), Chennai, dated 30.04.2023.

2. Brief facts of the case are that the assessee filed an application on 10.10.2022 in Form No. 10AB under Rule 11AA of the Income Tax Rules, 1962 seeking grant of approval under section 80G of the Income Tax Act, 1961 ["Act" in short]. The Id. CIT(E) has noted that as the applicant is an

old trust continuing to exist since much before commencement of new regime of registration and enjoyed the benefit of exemptions under the Income Tax Act, it ought to have applied for registration/approval under new regime in Form 10A under section 80G(5)(i) of the Act by which it would have got registration/approval for 5 years by the CPC. Instead of that the applicant had wrongly made application in Form 10A under section 80G(5)(iv) of the Act and received provisional approval for 3 years. Therefore, the Id. CIT(E) rejected the application filed by the assessee.

3. Before us, the Id. counsel for the assessee has submitted that the assessee may be permitted to file an application in Form 10A and one more opportunity may be given to substantiate its case before the Id. CIT(E).

4. On the other hand, the Id. DR supported the order passed by the Id. CIT(E).

5. We have heard both the sides, perused the materials available on record and gone through order passed by the Id. CIT(E). The assessee filed an application dated 10.10.2022 in Form 10AB under Rule 11AA of the IT Rules seeking approval under clause (iii) of first proviso to sub-

section (5) of section 80G of the Act. The application filed by the assessee was rejected by the Id. CIT(E) on ground that the applicant is an old trust continuing to exist since much before commencement of new regime of registration and enjoyed the benefit of exemptions under the Income Tax Act, it ought to have applied for registration/approval under new regime in Form 10A under section 80G(5)(i) of the Act by which it would have got registration/approval for 5 years by the CPC. Instead of that the applicant had wrongly made application in Form 10A under section 80G(5)(iv) of the Act and received provisional approval for 3 years.

6. We are of the view that the assessee filed an application under section 10A under section 80G(5)(iv) and suppose to file application under section 10A under section 80G(5)(i) of the Act, which is merely a technical breach, which may be cured by allowing the assessee to file application under section 80G(5)(i) of the Act. Hence, we set aside the order of the Id. CIT(E) and remit the matter back to the file of the Id. CIT(E) to allow the assessee to file application in Form 10A under section 80G(5)(i) of the Act with other required details and after examining the details with regard to grant of approval under section 80G, decide the issue in accordance with law.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 21<sup>st</sup> February, 2024 at Chennai.

Sd/-  
(MANJUNATHA, G.)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 21.02.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,  
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.