



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE 'B' BENCH, PUNE



BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 1217/PUN/2023

Shashvat Paediatric Care Foundation  
51, Narkesari Layout,  
Jayprakash Nagar, Khamla Rd.,  
Nagpur-440225  
PAN: ABCTS7980G

..... अपीलार्थी / Appellant

बनाम / V/s

Commissioner of Income Tax,  
Exemption, Pune

..... प्रत्यर्थी / Respondent

**द्वारा / Appearances**

Assessee by : Mr Sachin Joshi ['Ld. AR']

Revenue by : Mr Ajay Kumar Kesari ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 14/03/2024

घोषणा की तारीख / Date of Pronouncement : 14/03/2024

**आदेश / ORDER**

**PER G. D. PADMAHSHALI, AM;**

By the present appeal the assessee challenged DIN & order No. ITBA/EXM/F/EXM45/2023/24/1056334842(1) dt. 20/09/2023 of the Commissioner of Income Tax (Exemption), Pune [for short 'CIT(E)'] passed denied granting regular registration u/s 80G(5) of the Income/tax Act, 1961 [for short 'the Act'].

2. The long and short of the case is that; the appellant's application dt. 19/04/2022 for provisional registration u/s 80G(5)(iv) of the Act was accepted by the respondent Revenue and certificate to that effect vide order dt. 12/05/2022 was issued. Said provisional registration was in force and valid upto assessment year 2024-25. In



compliance of terms of condition of provisional registration and applicable provisions of the Act, the assessee vide its application No. CIT EXEMPTION, PUNE/2023/24/12AA/11360 dt. 31/03/2023 applied for regular/final 80G approval/registration, this application however by the impugned order is rejected by the Ld. CIT(E) *in limine* on the grounds of limitation.

3. In view of the Ld. CIT(E), since the appellant had already commenced its activities much before the issue of provisional registration, hence was under obligation to file an application seeking regular 80G registration within a period of six months therefrom i.e. on or before 04/11/2022. It is further the case of the Revenue that, delayed application filed was even beyond the extended time allowed by CBDT Circular 08/2022 dt. 30/09/2022. Thus said application of the appellant was barred by limitation and in absence of statutory provision empowering condonation of delay the application deserved rejection in the light of decision of Hon'ble Madras High Court in '*All Angels Educational Society Vs CCIT*' [WP/4969/2014] and the judgments of Hon'ble Supreme Court in the case of State of '*UP Vs Harish Chandra*' [AIR 1996 SC 2173]; further '*Union of India Vs Kirloskar Pneumatic Co. Ltd.*' [1996 taxmann.com 575 (SC)]

4. Aggrieved assessee brought up the present appeal before Tribunal on two argumentative legal grounds which we found are inconsonance with rule 8 of ITAT Rules, 1963. These twin grounds however solitarily allege the action of the respondent Revenue as erroneous & *contra-legem*, which without touching merits calls for adjudication on the grounds of limitation and violation of principle of natural justice.



5. Heard rival contentions of both the parties; and subject to the provisions of rule 18 of ITAT/Rules, 1963 perused material placed on record and case laws relied.

6. We have given our thoughtful consideration and perused the material available on record. It remained undisputed that, the appellant was granted a provisional registration u/s 80G(5)(iv) of the Act on 12/05/2022, and therefore was under obligation to file form 10AB for regular/final registration by 04/11/2022 or before the expiry of six months in terms of clause (iii) of first proviso to s/s (5) of section 80G of the Act. The appellant's application dt. 31/03/2023 for grant of regular registration was however admittedly filed after the expiry of former stipulate period. As a result, the application was rejected by the Revenue *in limine* on threefold grounds viz; (i) the application is barred by limitation, (ii) the appellant was not entitled to the extended time period in terms of circular 08/2023 dt. 24/05/2023 and (iii) absence of explicit provision/power to condone the delay in filing application for regular/final registration.

7. There is no dispute over (i) and (iii) reasoning of founded by the Ld. CIT(E), the solitary question therefore remains over applicability of circular 08/2023 in cases where provisional approval u/c (iv) of first proviso to s/s (5) of section 80G of the Act is granted.

8. Without reproducing lock stock and barrel of section 80G, it shall be purposive to state in the context of time limit that, there is no provision in the statute empowering condonation of delay in filing forms like 10A/10AB etc. by the registering authority. However, the CBDT invoking its power u/s 119 of the Act in first place extended the time limit within which the application for regular registration is to be filed to 30th



September, 2022 by circular No. 8/2022 dt. 31/03/2022. Further on the representation from stakeholders/industry that various trust/intuitions etc., were not been able to file applicable forms 10A/10AB etc., within the due date prescribed owing to system glitches, the Board for removing this genuine hardship vide circular 06/2023 dt. 24/05/2023 extended the time limit further upto 30/09/2023 in all cases where the due date for making application has expired prior to such date. The para 5(i) r.w. para 1(c) of the former circular (supra) makes it very clear that the circular besides covering cases of 10(23) and 12A registration ***also covers the cases falling u/c (i) of the first proviso to s/s (5) of the 80G of the Act.*** The clause (i) in turn refers to institutions or funds approved u/c (vi) by Ld. PCIT/CIT in relation to donation made after 31/03/1992. That is to say the assessee who is granted provisional registration by an order u/c (vi) of 80G(5) would then be entitled to extended time by virtue of 5(i) r.w. para 1(c) of circular (supra) and not otherwise.

9. In the present case before us, reading from para 3 of impugned order it as an undisputed fact that the appellant assessee was granted a provisional registration u/c (iv) of s/s (5) of section 80G of the Act by an order u/c (vi) of s/s (5) of section 80G of the Act by the Ld. CIT(E). Therefore, there remains no reason to draw out appellant's case from claiming benefit of extended period for filing application for regular registration.

10. Further the circular (supra) also clarified that the extended period upto 30/09/2023 shall apply even in cases, (i) where the application was rejected by the CIT(E) on or before issuance of this circular dated 24/05/2023 (ii) where due date for making/filing application has expired, on or before 30/09/2023. In addition to above, in reply to a specific query, one of the Trustee/founder members appearing for the



appellant spelt out the reasons beyond delayed filing of application, which in our considered view also formed sufficient & reasonable ground to condone the delay.

11. We find in similar facts & circumstance, the co-ordinate benches allowed benefit of extended time period in; 'Swachh Vapi Mission Trust Vs CIT(E)' [70 CCH 188] 'TB Lulla Charitable Foundation Vs CIT(E)' [70 CCH 176], and 'Gujarat Hira Bourse & Ors' [70 CCH 33], 'Bhamashah Sundarlal Daga Charitable Trust' [226 TTJ 961].

12. In view of the above and maintaining parity with the decisions on the subject matter, rejection of appellant's application on the ground of limitation in our considered view is without appreciating the facts in its entirety and devoid of subsisting circular (supra), hence deserves to be set-aside, ergo ordered accordingly. Resultantly, without commenting on merits of the case, we remand the matter back to the file of Ld. CIT(E) with a direction to treat appellant's application dt. 31/03/2023 as filed within the time limit prescribed u/c (iii) to first proviso to s/s (5) of section 80G of the Act r.w.c. 06/2023 (supra) and adjudicate the same on merits in accordance with law.

**13. In result, the appeal is allowed for statistical purpose in above terms.**

U/r 34 of ITAT Rules, the order pronounced in the open court on this Thursday 14<sup>th</sup> day of March, 2024.

**-S/d-**

**S. S. GODARA**  
**JUDICIAL MEMBER**

**-S/d-**

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 14<sup>th</sup> day of March, 2024.

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

1. अपीलार्थी / The Appellant.  
4. The CIT(E), Pune (MH/India)

2. प्रत्यर्थी / The Respondent.  
5. DR, ITAT, Pune Bench 'B', Pune

3. The Pr. CIT Concerned.  
6. गार्डफाइल / Guard File.

आदेशानुसार / By Order,  
वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.