

**THE INCOME TAX APPELLATE TRIBUNAL,
'B' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

I.T.A. No. 105/KOL/2024

***Friends of Kolkata,.....Appellant
C/o. AGSS & Co. Chartered Accountants,
9, Weston Street, 1st Floor, Room No. 126,
Kolkata-700013
[PAN:AAATF3723D]***

-Vs.-

***Commissioner of Income Tax (Exemption),
Kolkata,..... Respondent
10B, Middleton Road,
Kolkata-700071***

Appearances by:

*Shri Giridhar Dhelia, Advocate, appeared on behalf of the
assessee*

*Shri Abhijit Kundu, CIT (D.R.), appeared on behalf of the
Revenue*

Date of concluding the hearing: April 01, 2024

Date of pronouncing the order: April 01, 2024

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Exemption), Kolkata

dated 22.11.2023, vide which application of the assessee for grant of registration under section 80G(5) has been rejected.

2. Brief facts of the case are that the assessee-Trust commenced its activities from 13th April, 2012. It has applied for grant of registration under section 80G(5)(vi) on 6th June, 2012. This application of the assessee was allowed and registration under section 80G(5)(vi) was granted vide order dated 26th December, 2012.

3. The Id. Counsel for the assessee has submitted that with effect from 1st April, 2020, the new Scheme of Registration under sections 12A and 80G has been introduced. The assessee was required to apply for fresh registration w.e.f. 1st April, 2021. The basic condition for making an application for registration under section 80G(5)(i) was within six months from the commencement of its activities. However, this date of 1st April, 2021 has ultimately been extended upto 30th September, 2023. In other words, a regular registration under sub-clause (i) of Section 80G(5) could have been applied upto 30th September, 2023. The assessee before us has first made an application under sub-clause (iv) of Section 80G(5) vide which a provisional registration was granted to it.

4. In order to get a regular registration, the assessee has simultaneously applied under sub-clause (iii) of Section 80G(5) on 26th May, 2023.

5. As far as the details of application and their dates, there is not much dispute. The Id. CIT(Exemption) was of the view that activity of the assessee-Trust commenced in 2012 and, therefore, for grant of a regular registration, it ought to have applied within six months from the appointed date, i.e. 1st of April, 2021 extended upto 30th September, 2023. The assessee did not file such application. He further observed that the assessee has applied for grant of a provisional registration under sub-clause (iv) and immediately thereafter applied for grant of a regular registration under sub-clause (iii), which is meant for those Trust or Society, which came after April, 2021. In view of the above, he was of the opinion that being an old Trust, the assessee has applied for a provisional registration and thereafter regular registration. But such application is not in consonance with the procedure laid down under sub-clause (iii) as well as sub-clause (iv) and, therefore, on account of this technical aspect, he rejected the application of the assessee.

6. With the assistance of Id. Representatives, we have gone through the record carefully. As observed earlier, had application was moved under sub-clause (i) instead of applying for provisional registration, then no dispute would have come, because the assessee-Trust is an existing Trust and the time limit to move an application under sub-clause (i) has been extended upto 30th September, 2023. Its application alleged to be moved under sub-clause (iii). Would have been under clause (i), then it would be construed as within time limit?

7. We are of the view that it is only a technical error. The ld. CIT(Exemption) ought to have looked into the matter on this aspect and call for a clarification from the assessee. Once he was seized of the matter and aware that the Trust was enjoying registration under section 80G under old regime, it fulfilled all other conditions, then on account of wrong mention of section (iii) instead of (i), in its application should have not been given much weightage for rejecting the application on technical grounds. Therefore, we set aside the impugned order and relegate this issue to the file of ld. CIT(Exemption) with a direction that application of the assessee be treated under clause (i) and it be decided on merit.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 01/04/2024.

Sd/-	Sd/-
(Manish Borad)	(Rajpal Yadav)
Accountant Member	Vice-President (KZ)
<i>Kolkata, the 1st day of April, 2024</i>	

*Copies to :(1) Friends of Kolkata,
C/o. AGSS & Co. Chartered Accountants,
9, Weston Street, 1st Floor, Room No. 126,
Kolkata-700013*

*(2) Commissioner of Income Tax (Exemption),
Kolkata,
10B, Middleton Road, Kolkata-700071*

(3) CIT- , Kolkata

(4) The Departmental Representative;

(5) Guard File
TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.