

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1206/Chny/2023

&

आयकर अपील सं. ITA No.419/Chny/2024

Makarantham Charitable Trust 1, Housing Colony, Manikkampalayam, Nasiya Noor Road, Erode-638 011.	बनाम / Vs.	ITO Ward-2(1) Erode.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AAHTM-9666-M		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Ms. Sree Lakshmi Valli (Advocate)-Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri Nilay Baran Som(CIT) - Ld. Sr. DR

सुनवाईकी तारीख/ Date of Hearing	:	29-04-2024
घोषणाकी तारीख / Date of Pronouncement	:	02-05-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by rejection of application filed in Form No.10AB on 11.10.2022 for seeking approval under clause (ii) of first proviso to sub-section (5) of Sec.80G vide impugned order dated 21.04.2023, the assessee is in further appeal before us vide ITA No.1206/Chny/2023. The registry has noted a delay of 132 days in the appeal, the condonation of which has been sought by Ld. AR on the strength of affidavit of Chairman of the assessee trust. It has been stated that the application was rejected on the ground that the assessee ought to have

applied under clause (iii) of first proviso to Sec.80G(5) but it wrongly applied under clause (ii). The assessee once again filed Form No.10AB on 06.06.2023 under correct section. However, this form could be filed only for AY 2024-25 and hence, the grievance of the assessee in the present appeal. Considering all these facts, we condone the delay and proceed for adjudication of appeal on merits.

2. As is evident, the assessee was been granted provisional approval from 03.08.2022 to AY 2025-26. The Ld. CIT(E) held that application filed under Clause (ii) would not be maintainable since the application was to be filed in Clause (iii) in assessee' case. Aggrieved, the assessee is in further appeal before us.

3. We find that the application has been rejected merely on technical ground. It is clear that the assessee had obtained provisional approval and it sought permanent registration. By inadvertent mistake, the assessee preferred application under wrong Clause (ii) instead of Clause (iii). The assessee ought to have been granted an opportunity to rectify the same. Nevertheless, we direct Ld. CIT(E) to provide an opportunity to the assessee to rectify the application and consider the same on merits. The assessee is directed to substantiate its application. The appeal stand allowed for statistical purposes.

4 ITA No.419/Chny/2024 is against rejection of subsequent application filed by the assessee on 06.06.2023. Since we have already allowed relief on original application, this appeal has been rendered infructuous and hence, dismissed.

5. ITA No.1206/Chny/2023 stand allowed for statistical purposes whereas ITA No.419/Chny/2024 stand dismissed as infructuous.

Order pronounced on 2nd May, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 02-05-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF