

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCH “B”, MUMBAI**  
**BEFORE SHRI. OM PRAKASH KANT, ACCOUNTANT MEMBER**  
**AND**  
**SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA NO. 420/MUM/2024 (A.Y: 2023-24)**

Balkrishna Prabhu Charitable Trust 71, 6 <sup>th</sup> Floor, Girikunj, Netaji Subhash Marg, Marine Lines, Mumbai - 400 020. <b>PAN: AAATB3808P</b>	Vs.	CIT (Exemptions), Mumbai 601, 6 <sup>th</sup> Floor, Cumballa Hill, MTNL TE Building, Pedder Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai – 400 026.
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**(Appellant)**

**(Respondent)**

<b>Assessee Represented by</b>	<b>:</b>	<b>None</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri. Sunil Shinde (Sr. A.R.)</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>13.05.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>28.05.2024</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal bearing ITA No. 420/MUM/2024 for the assessment year 2023-24 is directed against the order of Learned Commissioner of Income Tax, (Exemptions), Mumbai [hereinafter referred to as the “CIT(E)”] passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] dated 05.12.2023, who has dismissed an application of the appellant under section 80G(5) by the impugned order.
2. The appellant has challenged the order and the following grounds:



1. *“The learned commissioner of Income Tax (Exemptions) erred in rejecting your appellant’s application for approval u/s. 80G of the Income Tax Act, 1961 on the ground that it is non-maintainable.*
  2. *The learned commissioner of Income Tax (Exemptions) was not justified in rejecting the application for approval u/s. 80G without affording the opportunity of being heard.*
  3. *The learned commissioner of Income Tax (Exemptions) ought to have decided the matter of approval u/s. 80G on merits of the case after providing an opportunity to the appellant trust to rectify the mistake of quoting incorrect section code in Form 10AB.”*
3. The matter in brief is that the appellant filed an application before the Ld. CIT (E) in form no. 10AB for registration of its charitable trust under section 80G(5) for claiming exemption and deduction under section 80G(5) in respect of the donation to the charitable institution. Vide impugned order dated 05.12.2023, the Ld. CIT(E), appellant’s application under section 80G(5) in form no. 10AB was rejected on the ground that the appellant selected a wrong section code (13-clause (ii) instead of 14 - clause (iii)).
4. We have heard the Ld. AR on behalf of the appellant and Ld. DR on behalf of the respondent. During arguments the Ld. AR pointed out that the appellant has already filed an application on 07.05.2024 seeking withdrawal of the present appeal for the reasons mentioned in the application as under:



*“The appellant's application u/s 80G (5) in Form 10AB was rejected on the ground that the appellant selected the wrong section code (13 clause (ii) instead of 14-clause (iii)). Recently, CBDT issued on 25.4.2024 a Circular no. 7/2024 extending the due date for filing of Form 10A/10AB under Income Tax Act, 1961. (A copy of Circular 7/2024 dated 25.04.2024 is attached herewith as Annexure I Para 4.1 of the CBDT Circular reads as under:*

*“Further in cases where any trust, institution or fund has already made an application Form 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date or **that the application has been furnished under the wrong section code, it may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph 3(ii) i.e., 30.06.2024**”*

*The appellant has already filed on 15.1.2024 a fresh application in Form 10AB under the correct section code (14-clause (ii)) which is yet to be processed. (A copy of the fresh application in Form 10AB dated 11.01.2024 along with the acknowledgment is attached herewith as Annexure 2) Since the appellant has already filed a fresh application and CBDT has now issued a circular extending due date for filing of Form 10A/10AB, you are requested to allow the appellant to withdraw the appeal filed against the rejection order u/s 80G (5) passed by the Commissioner of Income Tax (Exemption).”*

5. During arguments the Ld. DR on behalf of the revenue did not oppose the application for withdrawal of the present appeal. We have considered the rival submissions and also gone through the contents of the withdrawal application. It is evident that the said withdrawal application has been filed on the basis of circular dated 25.04.2024 issued by the CBDT bearing circular no. 7/2024 extending the due date



for filing of Form 10A/10AB under Income Tax Act, 1961. In view of the submissions made by parties and the contents of the withdrawal application, the application for withdrawal of the appeal is allowed and the present appeal is accordingly dismissed as withdrawn.

6. In the result, appeal filed by the assessee is dismissed in above terms.

Order pronounced in the open court on 28.05.2024

Sd/-  
**(OM PRAKASH KANT)**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**(RAJ KUMAR CHAUHAN)**  
**(JUDICIAL MEMBER)**

Mumbai / Dated 28.05.2024  
*Karishma J. Pawar, (Stenographer)*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mumbai**