

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G" DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.3280/DEL/2023  
Assessment Year 2023-24

<b>Sparsh Samajik Sewa Samiti Narnaul</b> HDFC Bank Ke Gali Opp. S. P. Residence Mohindergarh Road Narnaul, Haryana.	Vs.	<b>Commissioner of Income Tax (Exemptions)</b> Chandigarh
TAN/PAN: AAJAS8706R		
(Appellant)		(Respondent)

Appellant by:	Shri Parikshit Aggarwal, Chartered Accountant		
Respondent by:	Shri Dharm Veer Singh, CIT-DR		
Date of hearing:	16	05	2024
Date of pronouncement:	30	05	2024

**ORDER**

**PER PRADIP KUMAR KEDIA-AM:**

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Exemption), Chandigarh dated 21.09.2023 passed under Section 80G of the Income Tax Act, 1961 (the Act).

2. As per the grounds of appeal, the assessee has challenged denial of approval of the Trust under Section 80G of the Act.

3. When the matter was called for hearing, the ld. counsel for the assessee submitted that the assessee moved an application electronically for registration of the Trust under Section 80G(5) of the Act in prescribed Form 10AB under Rule 11AA of the Income Tax Rules, 1962

3.1 The Id. counsel submitted that the application for provisional registration was approved under new regime on 29.03.2023. The Trust activities were however already commenced long back on 31.10.2012. In terms of the new regime under clause (iii) of first proviso to sub Section (5) of Section 80G of the Income Tax Act, the application for regular / final approval is required to be made (i) at least six months prior to expiry of the period of provisional approval or ii) within six months of commencement of activities; whichever is earlier. Thus, as per the conditions stipulated by aforesaid clause (iti) to proviso, the application for final approval ought to have been made within six months of the commencement of activities which in the instant case is 31.10.2012. On this date, the new regime was not in place at all. The compliance of condition of application for approval within 6 months of commencement of activities is beyond comprehension and an impossibility to perform. The application was dutifully made by the Assessee Institution/ Trust for final approval on 29.03.2023, i.e., within six months of the provisional registration received on 21.01.2023. Adverting further, the Id. counsel referred to and relied upon Circular No.7 of 2024 dated 25.04.2024 to submit that the time limit for applying final registration has been extended and the assessee has filed the application for final registration within extended time limit. As further contended, the analogous situation in the legislative framework has been dealt with by the Co-ordinate Benches in favour of the assessee in the cases viz. *Indepth Vision Foundation vs. CIT(E), ITA No.460/CHD/2023 order dated 09.05.2024*; *Indian Red Cross Society vs. CIT(E), ITA No.288/CHD/2024 order dated 01.05.2024* and *Vaidya Mangat Rai Foundation vs. CIT(E), ITA No. 2668/Del/2023 order dated 18.04.2024*.

3.2 The Id. counsel thus urged for setting aside of the rejection order passed by the CIT(E) on technical grounds and restoration of the matter back to the file of the CITE) for adjudicating the application in the light of correct position of law enunciated by the Co-ordinate Benches.

4. We have weighed the rival submissions and perused the material on record. The question that arises for consideration is whether the CIT(E) is justified in denying the approval for regular/permanent registration of the assessee Institution/Fund holding that the application filed by the assessee Institution/Fund in prescribed Form 10AB for the purposes of approval under s. 80G is time barred.

5. Clause (iii) of First Proviso to sub-section(5) of 80G of the Act places embargo of time limit to make application before the competent authority for grant of approval under s. 80G of the Act. The aforesaid clause stipulates that where the assessee Institution or Fund is provisionally approved, the application for final registration under Form 10AB shall be made by such assessee, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, which is earlier.

6. The CIT(E) has denied final approval under s. 80G to the Assessee on the ground that the application for approval has not been made within six months of commencement of its activities.

7. It is the case of the assessee that the commencement of activities have happened way back in October 2012, when scheme of

provisional and final approval was not enacted. The assessee has obtained provisional approval in Jan. 2023 and applied for final approval in March 2023. The strict compliance of time limit in the facts of the case is an utter impossibility since the activities of the assessee commenced much before such law came into force. The assessee thus seeks directions for approval based on harmonious interpretation of such conditions.

8. As contested on behalf of the assessee, the literal interpretation under clause (ili) to proviso to sub section (5) to Section 80G would lead to absurd and anomalous result in the facts of such case. The assessee has invoked 'doctrine of impossibility' in the instant case to meet the limitation assigned for final approval in clause (ili) of First Proviso to S. 80G(5). The doctrine of legitimate expectations in the circumstances was also invoked. We are inclined to agree without any difficulty. It is ostensible that the limitation period provided by the statute stood expired as soon as the new law was enacted. The compliance of stipulations towards time frame for application is ousted at the threshold. It is trite that the law cannot be read in a manner to cast impossible burden on the subject assessee. It is also trite that an assessee cannot be asked to do something which is impossible for him to carry out. In the light of such salutary principles, resort is required to be taken to harmonious interpretation of such stipulations to make the statutory enactment workable.

9. In the backdrop of peculiar facts, we are of the firm view that the application made for the final registration within 6 months prior to expiry of period of provisional registration meets substantial compliance notwithstanding non compliance of moving an

application for approval within 6 months of commencement of activities as thrust upon by the second limb of clause (iii) of the proviso.

10. Consequently, we set aside the impugned order of the CIT(E) denying approval on the grounds of expiry of limitation and direct the CIT(E) to re-examine the application for approval under Section 80G of the Act afresh in accordance with law disregarding the fetters of application to be made within 6 months of commencement of activities, for the purposes of grant of approval.

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

**Order pronounced in the open Court on 30/05/2024**

**Sd/-**

**[KUL BHARAT]  
JUDICIAL MEMBER**

**Sd/-**

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**

DATED: **/05/2024**

*Prabhat*