

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI ABY T. VARKEY, JM AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.653/Chny/2024

IRTT 91-95 Batch Charitable  
Trust, D2 Kavya Anjali  
Apartment, No.8, Sathalwar  
Street Mogappair West,  
Chennai-37  
[PAN-AABTI8310G)

The Income Tax Officer,  
Vs. Exemption Ward-3, Chennai-  
34.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by  
प्रत्यर्थी की ओर से /Revenue by

: Shri G.Baskar, Advocate  
: Shri Clement Ramesh Kumar,  
JCIT

सुनवाई की तारीख/Date of Hearing

: 20.05.2024

घोषणा की तारीख /Date of Pronouncement

: 31.05.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal arises from order vide DIN/order No. ITBA/EXM/F/EXM/45/2022-23/1046206915(1) dated 07.10.2022 of the CIT(Exemption) denying registration u/s clause-(ii) of first proviso to section 80G(5) of the Income tax Act.

2.0 It is seen from records that there is delay of 462 days in filing of this appeal. The assessee has submitted that it was granted provisional approval on 27.11.2021 upto AY-2024-25. Therefore the assessee filed

Form-10AB seeking approval u/s 80G(5), Clause(ii) of 1<sup>st</sup> proviso, which was rejected ex-parte qua assessee and assessee learnt about it only when it received the assessment order passed u/s 143(3) dated 20.02.2024 for AY 2022-23. The appellant had argued that it had submitted its correspondence email to the department as samykrishna@yahoo.co.in. On the contrary the department was sending all its communications on email ID samykrishna@yahoo.com as a result of which there was a case of unintended non-compliance to the departmental notices. Evidences brought on record allude that there is sufficient force in the assessee's arguments. The delay in filing the appeal is therefore condoned and the appeal is being adjudicated as under.

3.0 As regards denial of the registration u/s 80G(Supra), through grounds of appeal in form 36, the assessee submitted non-compliance by the assessee was attributable to the notices issued by CIT(E) on wrong email address. The Ld.DR argued in favour of order of authorities down below.

4.0 We have considered the facts of the case in the light of arguments put forth. It is not that assessee had received provisional approval u/s 80G(5) Clause(IV) of 1<sup>st</sup> proviso on 20.11.2021 upto AY-2024-25. Therefore assessee applied for registration u/s 80G(5) Clause(ii) of 1<sup>st</sup> proviso, which was rejected by the Ld.CIT(E) on the premise of willful

non-compliance. The fact of the matter remains that the assessee never received the departmental notices. We are of the view that ends of justice would be met if the assessee is given an opportunity to present its case before the Ld.CIT(E) for consideration of registration u/s 80G. Accordingly, the order of Ld.CIT(E) dated 07.10.2022 is set aside with the directions to reconsider the assessee's application dated 20.04.2022 in Form-10AB for grant of registration u/s 80G. The assessee is directed to make complete and correct compliance towards the notices issued by the Ld.CIT(E) and the Ld.CIT(E) to hear the assessee and pass order in according to law.

5.0 In the result the appeal is allowed for statistical purpose.

*Order pronounced on 31<sup>st</sup> May, 2024.*

**Sd/-**  
**( ABY T.VARKEY )**  
**Judicial Member**

**Sd/-**  
**(AMITABH SHUKLA)**  
**Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 31<sup>st</sup> May, 2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Coimbatore / Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF