

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.106/CTK/2024

(निर्धारण वर्ष / Assessment Year : NA)

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| Bhoomishri Public Charitable Trust Plot No.36/469, CDA, Sector-9, Avinab Bidanasi, Cuttack-753014 | Vs | CIT (Exemption), Hyderabad |
| PAN No. :AAETB 6651 L | | |

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| (अपीलार्थी / Appellant) | .. | (प्रत्यर्थी / Respondent) |
|-------------------------|----|---------------------------|

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| निर्धारिती की ओर से / Assessee by | : | Shri P.K.Mishra, Advocate |
| राजस्व की ओर से / Revenue by | : | Shri Sanjay Kumar, CIT-DR |
| सुनवाई की तारीख / Date of Hearing | : | 05/06/2024 |
| घोषणा की तारीख / Date of Pronouncement | : | 05/06/2024 |

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Id. CIT(Exemption), Hyderabad, dated 01.03.2024, in DIN & Order No.ITBA/EXM/F/XM45/2023-24/1061816802(1), rejecting the application of the assessee seeking registration u/s.80G of the Act. The assessee has challenged the said order by taking the following grounds of appeal :-

- 1) *That, on the facts and circumstances of the case the order passed by the Learned Commissioner of Income Tax (Exemption) is arbitrary, illegal, bad in Law.*
- 2) *That, the Learned Commissioner of Income Tax (Exemption) erred in Law as well as in fact in mechanically rejecting the Form 10AB seeking Registration U/s 80G(S) without going into the Merits of the case.*
- 3) *That, the Learned Commissioner of Income Tax (Exemption) erred in Law as well as in fact in not accepting that the Appellant Trust on a honest & bonafide belief treated the 1st outside donation received on 07/09/2023 as Commencement of Activity for the purpose of Exemption U/s 80G & accordingly applied for regular Registration on 28/09/2023.*

- 4) *That, on the facts and circumstances of the case the Learned the Learned Commissioner of Income Tax (Exemption) erred in Law as well as in fact in cancelling the provisional registration granted on 03/08/2022 in absence of any dissatisfaction about the genuineness of the activities of the Appellant Trust and in absence of any violation of conditions prescribed in clause (i) to (v) of Section 80G(5).*
- 5) *That, on the facts and circumstances of the case the Learned Commissioner of Income Tax (Exemption) erred in Law as well as in fact in not appreciating the fact that provisional Approval granted upto Asst. Year 2025-26 can be cancelled by the Learned CIT(Exemption) only on the specific violations of the Assessee and the Learned CIT(Exemption) had not mentioned about any violation by the Assessee.*
- 6) *That, the Appellant craves leave to add to, alter, amend, modify, substitute, delete, and/or rescind all or any of the GROUNDS OF APPEAL on or before the final hearing, if necessary so desires.*

2. Brief facts of the case are that the assessee has filed application in Form 10AB for granting registration u/s.80G(5) and provisional registration was granted by CPC in Form 10AC dated 3.8.2022 valid from 3.8.2022 to A.Y.2025-2026. It is observed by the Id.CIT(E) that Form 10AB was filed on 28.09.2023, however, the assessee has commenced its activity much earlier. Accordingly by holding that the assessee has not filed Form 10B within six months from the commencement of the activity, therefore, he rejected the same being filed beyond the prescribed time limit as per the Finance Act, 2020. Before us, Id. AR of the assessee brought our attention to the CBDT Circular No.7/2024 dated 25.04.2024, wherein the extension in due date for filing of Form 10B is made upto 30th June, 2024. The relevant para 4.1 of the Circular related to the case of the assessee is reproduced hereinunder :-

4.1 Further, in cases where any trust, institution or fund has already made an application in Form No.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.

3. In view of the above, the Id. AR of the assessee requested for grant of registration as application was within the extended due date.

4. On the other hand, Id. CIT-DR submitted that as per the CBDT Circular assessee has to file fresh application as the order in this case has already been passed on or before the issuance of the said Circular.

5. We have heard rival contentions and perused the material available on record. From the order of the Id. CIT(E), it appears that the application of the assessee was rejected solely on the ground that the Form 10AB was filed beyond the prescribed time limit as provided by the Finance Act, 2020. The CBDT Circular No.7/2024 has addressed this issue by which the time limit for filing Form 10AB is extended upto 30.06.2024. Since in this case, the order has already been passed by the Pr.CIT rejecting the application filed by the assessee, normally we would have set aside the order of the Id. CIT(E) and direct the assessee to file a fresh application in view of the Circular issued by the CBDT, referred to supra. This would only lead to multiple filings before the Id. CIT(E). This being so, in view of the Circular issued by the CBDT and also being live to the Circular issued by the CBDT in para 4.1, we set aside the order of the Id. CIT(E) and restore the issues to the file of Id.CIT(E) to readjudicate the issue holding the application of the assessee as being within time in view of the above mentioned Circular.

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

Order dictated and pronounced in the open court on 05/06/2024.

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-
(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 05/06/2024

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Bhoomishri Public Charitable Trust
Plot No.36/469, CDA, Sector-9,
Avinab Bidanasi, Cuttack-753014
2. प्रत्यर्थी / The Respondent-
CIT (Exemption), Hyderabad
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कटक** / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack