

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT  
&  
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

**I.T.A. No. 1269/Kol/2023**

<b>Narsinghdas Rawalwasia Charitable Trust Ground Floor 4/1, Middleton Street Kolkata - 700071 [PAN : AADTN4041R]</b>	Vs	<b>Commissioner of Income Tax (Exemptions), Kolkata</b>
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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**I.T.A. No. 794/Kol/2024**

<b>Raichand Kothari Foundation 1108, 11<sup>th</sup> Floor Om Tower 32, Chowringhee Road Kolkata - 700071 [PAN : AAETR4514J]</b>	Vs	<b>Commissioner of Income Tax (Exemptions), Kolkata</b>
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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**I.T.A. No. 671/Kol/2024**

<b>Avijit Roy Memorial Foundation Roy Bari 192D, NSC Bose Road Regent Park Kolkata - 700040 [PAN : AAJTA0275G]</b>	Vs	<b>Commissioner of Income Tax (Exemptions), Kolkata</b>
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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**I.T.A. No. 766/Kol/2024**

<b>M/s. Tattva Heritage Foundation 15, Bepin Pal Road Flat No. 2A, 2<sup>nd</sup> Floor Kolkata - 700026 [PAN : AAICT8214E]</b>	Vs	<b>Commissioner of Income Tax (Exemptions), Kolkata</b>
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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### I.T.A. No. 1471/Kol/2023

<b>Shree Karunanidhan Seva Trust</b> 1 <sup>st</sup> Floor, Room No. 2 7, Rabindra Sarani Kolkata - 700001 <b>[PAN : ABATS9747B]</b>	Vs	<b>Commissioner of Income Tax</b> <b>(Exemptions), Kolkata</b>
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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### I.T.A. No. 1470/Kol/2023

<b>Saraogi Udyog Foundation</b> Suite No. 910, Merlin Infinite DN 51, Salt Lake Sector V Kolkata - 700091 <b>[PAN : ABDTS2882E]</b>	Vs	<b>Commissioner of Income Tax</b> <b>(Exemptions), Kolkata</b>
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Sunil Surana, A/R
Revenue by :	Shri Arun Kumar Meena, JCIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 01/04/2024  
 घोषणा की तारीख /Date of Pronouncement: 03/06/2024

#### आदेश/ORDER

#### PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

These appeals are directed at the instance of the assessee against the separate orders of the learned Commissioner of Income Tax (Exemptions), (hereinafter the "Id. CIT(E)").

2. The Registry has informed that I.T.A. No. 1269/Kol/2023, is delayed by 71 days. Perusal of the records indicate that the reasons mentioned by the assessee for the said delay is that the trustee Mr. Dayanand Agarwal, who looks after the taxations matter is a senior citizen aged 72 years and facing various health issues and was unable to check the income tax portal as well as the registered e-mail id. Once he recovered from poor health, he came to know about the litigation of

approval u/s 80G and immediately consulted the authorised representative for filing appeal. We after considering the said reasons stated in the application and also considering the objections raised by the ld. D/R, opposing the condonation of delay, in the larger interest of justice condone the delay finding it to be on account of reasonable cause and admit the appeal for adjudication.

3. As the issues involved in all these appeals are identical, they were heard together and are being disposed off by way of this common order.

4. The sole grievance of the assessee is against the action of the ld. CIT(E) in rejecting the application of the assessee for permanent registration by merely treating them as non-maintainable having been filed after the extended due date of 30/09/2022 vide CBDT Circular No. 8/2022, dated 31/03/2022.

5. At the outset, the ld. Counsel for the assessee, submitted that the present appeals, assesseees were granted provisional approval u/s 80G of the Act. Subsequently, applications for final approval were filed in Form 10AB. However, the ld. CIT(E) rejected the application on two grounds firstly that the assessee failed to comply with the criteria laid down under explanation to clause (iii) of Section 80G(5) as per which the assessee had to apply for the final registration at least six months prior to the expiry of period of the provisional registration or within six months of commencement of its activities whichever is earlier. Secondly that Form No. 10AB have been filed after the extended due date i.e., 30/09/2022 vide CBDT Circular No. 8/2022 dated 31/03/2022. The ld. Counsel for the assessee further submitted that the ld. CIT(E) took the basis of commencement of activities and rejected the application as non-

maintainable, even though the assessee has fulfilled the conditions. He placed reliance on the recent decision of the Co-ordinate Bench of this Tribunal in the case of *Diamond Cares vs. CIT in ITA No. 877/Ko/2023, order dt. 10/01/2023.*

The Id. D/R vehemently argued supporting the order of the Id. CIT(E).

6. We have heard rival contention and perused the material placed before us. We find that *prima facie* this issue is squarely covered in favour of the assessee by the decision of this Tribunal in the case of *Diamond Cares vs. CIT in ITA No. 877/Ko/2023 (supra)*, wherein the Tribunal under identical facts and circumstances has held under:-

*“6. As observed by the Co-ordinate Bench of the Tribunal in the case of West Bengal Welfare Society (supra) that though the assessee may have commenced its activities prior to applying for provisional approval u/s 80G(5) of the Act, but that does not mean that once the assessee has commenced its activities or already has been doing charitable activities and it has not opted for getting benefits under the Income-tax Act, then such an assessee trust/charitable institution is barred in future from applying from registration/approval under the relevant provision of the Income-tax Act. In the present case, the assessee might have commenced its activities in the F.Y. 2020-21 as observed by the Id. CIT(E), however, the assessee for the first time, applied for grant of provisional registration u/s 80G(5) of the Act from Assessment Year 2023-24 onwards only. The Id. CIT(E) taking note of the past activity of the assessee has granted a provisional registration. The assessee did not carry out any activity after the grant of provisional registration on 26/05/2022. The assessee for the first time started its activity after grant of provisional registration on 15/09/2022, on which date the trust received donation. The assessee made donation and the assessee trust thereafter applied for final registration on 30/12/2022 which was well within the period of six months from the commencement of its charitable activity after the date of provisional registration. If the view of the Id. CIT(E), under such circumstances, is considered to be correct then, any trust which is or has been already into charitable activities and has been granted provisional registration, the same will never be entitled for grant of final registration. Such an interpretation of the provisions of Section 80G(5) of the Act will defeat its purpose. Therefore, taking the reasonable construction of the said provision, the assessee is well within the prescribed limitation period to apply for the final approval u/s 80G(5) of the Act. The decision of the Co-ordinate Bench of the Tribunal in the case of West Bengal Welfare Society (supra) is fairly applicable in the present case. Therefore, the impugned order of the Id. CIT(E) is set aside and the*

*Id. CIT(E) is directed to grant final approval to the assessee u/s 80G(5)(iii) of the Act, if the assessee is otherwise found eligible, irrespective of the date of application as discussed above.*

7. *In the result, appeal of the assessee is allowed."*

**{Emphasis ours}**

7. On going through the findings of this Tribunal in the case of *Diamond Cares vs. CIT(supra)*, we find that the same is squarely applicable on the common issues raised in the captioned appeals and *Id. CIT(A)* ought to have considered the application on Form 10AB for grant of approval u/s 80G(5) of the Act as the application of the assessee is well within the prescribed limitation period.

8. Further we also take note of the recent Circular issued by the CBDT bearing 7/2024, dt. 25/04/2024, extending the due date of filing Form 10A/10AB upto 30/06/2024. In the past, the due date was extended to 30/09/2022 by CBDT Circular No. 8/2022 dated 31/03/2022. Since the application for final approval were filed on Form 10AB by all the captioned appellants after 30/09/2022, the *Id. CIT(E)* rejected the application in Form 10AB for being filed beyond the extended due date. However, since now the due date has been extended by the CBDT upto 30/06/2024, the applications on Form 10AB filed by the captioned assessee(s) are well within the extended time limit, we, therefore, set aside the impugned orders of the *Id. CIT(E)* with a direction to admit the application filed in Form 10AB and grant approval u/s 80G(5)(iii) of the Act, if the assessee(s) are otherwise found eligible.



I.T.A. No. 1269/Ko/2023; Narsinghdas Rawalwasia Charitable Trust  
 I.T.A. No. 794/Ko/2024; Raichand Kothari Foundation  
 I.T.A. No. 671/Ko/2024; Avijit Roy Memorial Foundation  
 I.T.A. No. 766/Ko/2024; M/s. Tattva Heritage Foundation  
 I.T.A. No. 1471/Ko/2023; Shree Karunanidhan Seva Trust  
 I.T.A. No. 1470/Ko/2023; Saraogi Udyog Foundation

9. In the result, all the appeal of the assessee(s) are allowed for statistical purposes.

**Order pronounced in the Court on 3<sup>rd</sup> June, 2024 at Kolkata.**

*Sd/-*

**(RAJPAL YADAV)  
VICE PRESIDENT**

*Sd/-*

**(DR. MANISH BORAD)  
ACCOUNTANT MEMBER**

Kolkata, Dated 03/06/2024

*30/6/24*

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata