

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA 'A' BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

ITA No.104/Kol/2024

Dhanwantary Seva Foundation	vs	CIT (Exemption), Kolkata
PAN: AAATD 8779 M		
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Giridhar Dhelia, Advocate
Revenue by : Shri S. Datta, CIT, DR

Date of Hearing : 02.04.2024

Date of Pronouncement : 03.06.2024

ORDER

PER SONJOY SARMA: JM

The present appeal filed by the assessee is directed against the order passed by Id. Commissioner of Income-tax (Exemption), Kolkata [in short Id. CIT (Exemption)] in relation to registration applied u/s 80G of the Income Tax Act, 1961 (in brevity the 'Act') dated 21.11.2023.

2. At the outset, Id. Counsel for the assessee stated before the Bench that the assessee is a Trust and has granted provisional approval u/s 80G(5)(iv) of the Act in Form 10AC vide order dated 25.05.2023 for a period commencing from 25.05.2023 to AY 2026-27. Subsequently, assessee also filed an application for approval of Trust u/s 80G(5)(iii) of the Act electronically on 26.05.2023 in Form 10AB under Rule 17A of the Income Tax Rules, 1962. However, the extended due date for filing of such application in Form 10AB was extended up to 30.09.2022 as per CBDT Circular No. 8/22 dated 31.03.2022. As the present assessee could not file such application within the extended due date as per the CBDT circular, the claim of the assessee was rejected. Aggrieved by the above order assessee is in

appeal before this Tribunal. However, in the intervening time CBDT has recently issued a circular bearing No. 7/24 by which extended the benefit of due date for filing Form 10A/10AB up to 03.06.2024 by stating in para 4.1 of the said Circular as under:

“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 Circular issued by CBDT, ld. AR prayed before the bench to set aside the matter to ld. CIT(A) for fresh consideration.

4. On the other hand, ld. DR was fair enough not to object to such prayer made by ld. AR before this bench.

5. After hearing the submission of both the parties and perusing the material available on record, we allow the prayer made by the assessee to restore the matter to the file of ld. CIT(A) with a direction to re-examine the issue afresh in view of CBDT's Circular No. 7/24.

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

Order pronounced in the open court on 03.06.2024.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Copy to:

1. The Appellant: Dhanwantary Seva Foundation, C/o. AGSS & Co. Chartered Accountants, 9, Weston Street, 1st Floor, Room No. 126, Kolkata-700013.
2. The Respondent: CIT (Exemption), Kolkata.
3. The CIT, Concerned,
4. The CIT (A) Concerned,
5. The DR Concerned Bench

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata