

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं  
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।  
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM  
AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकरअपील सं./ ITA No.1367/Chny/2023**

Palaniswamy Karunai Trust,  
538, LIC II, TNEB Colony,  
First Avenue,  
Velacherry,  
Chennai 600 042.

**Vs.** The Commissioner of Income Tax,  
Exemption,  
Chennai.

**[PAN: AAETP 5269Q]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. Varadarajan, CMA

प्रत्यर्थी की ओर से /Respondent by

: Shri. Nilay Baran Som, IRS, CIT.

सुनवाई की तारीख/Date of Hearing

: 10.06.2024

घोषणा की तारीख /Date of Pronouncement

: 10.06.2024

**आदेश / ORDER**

**PER MANU KUMAR GIRI (Judicial Member)**

Aggrieved by rejection of application filed in Form No.10AB on 29.03.2023 for seeking approval under clause (iii) of first proviso to subsection (5) of Sec.80G vide impugned order dated 29.09.2023, the assessee is in further appeal before us.

2. From the record, it emerges that the assessee trust filed an application in Form No.10AB on 29.03.2023 seeking registration under clause (iii) of first proviso

to sub-section (5) of Sec.80G. It transpired that the assessee trust was incorporated on 28.08.2020 and it commenced its activities on 28.08.2020. The assessee was granted provisional approval in Form No.10AC u/s 80G(5)(iv) for the period commencing from 19.01.2023 to AY 2025-26. The first proviso to Sec. 80G (5), provide timeline for an application to be filed under clause (iii) of first proviso to sub-section (5) of Sec.80G. As per sub-clause (iii) of this proviso, the assessee was required to file this application at least before 6 months prior to expiry of provisional approval or within 6 months from the date of commencement of its activities, whichever is earlier. The said timeline was mandatory in nature. As against this, the assessee filed application on 29.03.2023 which was much after expiry of 6 months from commencement of its activities. Accordingly, it was held by Ld. CIT(E) that the application was time barred hence non maintainable and liable to be rejected.

3. The Ld. CIT(E) also noted that under the new regime, CBDT, on multiple occasions, extended time limit for filing the application in Form No.10A and / or 10AB. The latest Circular No.08 of 2022 dated 31.03.2022 extended the time limit to 30.09.2022 beyond which there was no further extension. This was evident from subsequent CBDT Circular No.22/2022 dated 01.11.2022 through which CBDT extended time limit for filing application in Form No.10A under various Sections, up to 25.11.2022. However no further extension was granted for filing of Form No.10AB. Also, CBDT issued another Circular No.6/2023 on 24.05.2023 extending due date for filing application in Form No.10AB from 30.09.2022 to 30.09.2023 only in respect of trusts / institutions registered u/s 10(23C) and 12AB. The said Circular

did not mention any such extension of due date for filing Form No.10AB to get approval u/s 80G. Therefore, the application was treated as time barred and rejected as non-maintainable. Aggrieved, the assessee is in further appeal before us.

4. It is admitted fact that the assessee is has commenced its activities on 28.08.2020. It could further be noted that the assessee has already received provisional approval u/s 80G(5)(iv) for a period commencing from 19.01.2023 to AY 2025-26. It sought approval u/s 80G(5)(iii) by filing Form No.10AB on 29.03.2023 which has been rejected by Ld. CIT(E) on the ground that the assessee had violated the mandatory time lines as statutorily provided. However, we find that this issue has been decided by co-ordinate bench in bunch of appeals titled as M/s CIT-1982 Charitable Trust & Ors, ITA No.827/Chny/2023 order dated 08.03.2024 wherein the bench held that the extended time limit of 30.09.2023 as per CBDT Circular would

5. The bench also takes note of the latest decision of Hon'ble High Court of Madras in the case of Sri Nrisimha Priya Charitable Trust in WP Nos.27030 & ors. of 2024 order dated 02.04.2024 wherein Hon'ble Court has held that clause 5(ii) of Circular No.6 of 2023 dated 24.05.2023 is illegitimate, arbitrary and ultra vires the constitution of India.

6. We also conciously take note of the recent Circular No.07/24 issued by CBDT on 25.04.2024 extending time limit for all such applications to 30.06.2024.

Therefore, we set aside the impugned order and direct Ld. CIT(E) to consider the application on merits without raising the issue of timeline.

7. The appeal stand allowed for statistical purposes.

Order pronounced on 10th day of June, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated : 10 -06-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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