

आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 472/Kol/2024
Assessment Year: Nil

Paschim Banga Kheria Sabar Kalyan Samity (PAN: AAGAP 8773 L)	Vs.	CIT(E), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	26.03.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	13.06.2024
For the Appellant/ निर्धारिती की ओर से	Shri Manoj Kataruka, A.R
For the Respondent/ राजस्व की ओर से	Shri Abhijit Kundu, CITDR

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Exemption)-Kolkata (hereinafter referred to as the Ld. CIT(A)"] dated 01.03.2024 for the AY NA.

2. Issue raised in various ground of appeal the assessee has challenged the order of Ld. CIT(E) rejecting the appeal of trust u/s 80G(5)(iii) applied by the assessee in Form 10AB and also read with Rule 17A of the Income Tax Rules, 1962 on the

ground of failing on same on 25.09.2022 and also cancelling the provision of registration.

3. Facts in brief are that the assessee was granted provisional approval u/s 80G in Form 10AC vide order dated 15.10.2021 for a period from 15.10.2021 to AY 2024-25. The assessee moved an application for approval of trust u/s 80G(iii) of the Act electronically on 25.09.2023 in Form 10AB under Rule 17A of the Rules which according to Ld. CIT(E), was not filed within the time prescribed u/s 80G(5)(iii) as the trust is an existing trust and already have commenced the activities. Finally the Ld. CIT(E) dismissed the application of assessee on the ground that Circular no. 6 of 2023 dated 24.05.2023 issued by CBDT does not extend the benefit of extension of due date to 30.09.2023 to cases u/s 80G(5) of the Act and due date for such application u/s 10AB was 30.09.2022. Having observed all these facts the Ld. CIT(E) rejected the application for approval as well as provisional registration.

5. After hearing the rival contentions and perusing the material on record, we find that the assessee is duly registered u/s 12A of the Act enjoying exemption u/s 80G(5) of the Act. We note that the assessee is an old one and the activities of the institution were started since inception. We are also mindful of the recent CBDT F. No. 173/25/2024-ITA-I, Circular no. 7/2024 dated 25.04.2024 has extended the time allowing the various trust/institution file application for approval u/s 80(5) electronically up to 30.06.2024. The said circular is extracted below for the sake of ready reference:

Circular No. 7/2024

F. No. 173/25/2024-ITA-I
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Direct Taxes

New Delhi, Dated 25th April, 2024

**Sub: Extension of due date for filing of Form No. 10A/10AB under the Income-tax Act, 1961-
 reg.**

On consideration of difficulties reported by the taxpayers and other stakeholders in the electronic filing of Form No. 10A/10AB, the Central Board of Direct Taxes (*the Board*) in exercise of its powers under section 119 of the Income-tax Act, 1961 (*the Act*) extended the due date for filing Form No. 10A to 31.08.2021 by Circular No. 12/2021 dated 25.06.2021, to 31.03.2022 by Circular No. 16/2021 dated 29.08.2021, to 25.11.2022 by Circular No. 22/2022 dated 01.11.2022 and further to 30.09.2023 by Circular No. 6/2023 dated 24.05.2023, and extended the due date for filing Form No. 10AB to 30.09.2022 by Circular No. 8/2022 dated 31.03.2022 and further to 30.09.2023 by Circular No. 6/2023 dated 24.05.2023.

2. Representations have been received in the Board with a request to condone the delay in filing Form No. 10A/10AB, as the same could not be filed in such cases within the last extended date, i.e., 30.09.2023.

3. On consideration of the matter, with a view to avoid and mitigate genuine hardship in such cases, the Board, in exercise of the powers conferred under section 119 of the Act, hereby extends the due date of making an application/intimation electronically in –

(i) Form No. 10A, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G or in case of an intimation under fifth proviso of sub-section (1) of section 35 of the Act, till 30.06.2024;

(ii) Form No. 10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, till 30.06.2024.

4. It may be also noted that extension of due date as mentioned in paragraph 3(ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or

sub-clause (iii) of clause (ac) of sub-section (1) of section-12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be. Hence, in cases where any trust, institution or fund has already made an application in Form No.10AB under the said provisions on or before the issuance of this Circular, and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No. 10AB may be treated as a valid application.

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.

5. It is also clarified that if any existing trust, institution or fund who had failed to file Form No. 10A for AY 2022-23 within the due date as extended by the CBDT circular no. 6/2023 dated 24.05.2023 and subsequently, applied for provisional registration as a new trust, institution or fund and has received Form No. 10AC, it can avail the option to surrender the said Form No. 10AC and apply for registration for AY 2022-23 as an existing trust, institution or fund in Form No. 10A within the extended time provided in paragraph 3(i) i.e. 30.06.2024.

6. Hindi version to follow.

Vikas Singh
(Vikas Singh)
Director (ITA-I)

Copy to:-

1. PS to FM/OSD to FM/PS to MoS (R)/OSD to MoS(R)
2. PS to Revenue Secretary
3. Chairman, CBDT & All Members, CBDT
4. All Principal Chief Commissioners of Income-tax / Principal Director Generals of Income-tax.
5. DGIT(Systems), New Delhi
6. All Joint Secretaries/CsIT, CBDT
7. Web Manager, O/o DGIT(Systems) with request to upload on the departmental website of incometaxindia.gov.in.
8. Pr. Commissioner of Income-tax (Media & TP) and official Spokesperson, CBDT, New Delhi.
9. JCIT, Data-Base Cell for uploading on irsofficeronline.gov.in.
10. Guard File

Vikas Singh
Director (ITA-I)

We note that since the assessee is duly registered u/s 12A of the Act and was granted provisional approval under section 80G(5)(iii) up to AY 2024-25 vide order dated 15.10.2021 in Form 10AC and there is no change in the activities of the assessee whatsoever since then. Therefore we are of the view that the filing of application is

just procedural and would not have any substantive effect and would not substantially change the position of the assessee vis-à-vis the provisions of Act. Moreover in view of Circular No. 7/2024 dated 25.04.2024 , now the assessee can apply for approval up to 30.06.2024. Considering these facts and circumstances of the case, we restore the issue back to the Ld. CIT(E) with direction to decide the issue of approval after treating the application already filed by the assessee as filed within the due time.

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

Order is pronounced in the open court on 13th June, 2024

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 13th June, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Paschim Banga Kheria Sabar Kalyan Samity, Vill & P.O. Rajnowagarh, Purulia, At Purulia-723128.
2. Respondent – CIT(E), Kolkata
3. Ld. Pr. CIT- , Kolkata
4. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata