

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.719/PUN/2024

Taxation Consultants Association, Krushna Kunj Apartment, 2nd Floor, Opposite Engineers & Amp, Arch, ITECTS Association, Gulmohar Colony, Sangli- 416416. PAN : AADTT1339G	Vs.	CIT Exemption, Pune.
Appellant		Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Ajay Kumar Keshari
Date of hearing : 31.05.2024
Date of pronouncement : 21.06.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 16.03.2024 passed by Ld CIT Exemption, Pune rejecting the application for grant of registration u/s 80G(5) of the IT Act.

2. The appellant has raised the following grounds of appeal :-

"1. The ld CIT Exemption erred in law and on facts in treating the application under Clause (iii) of first proviso to sub-section (5) of Section 80G as non-maintainable on the ground of being filed

beyond the statutory period as provided in Clause (iii) of first proviso to Section 80G(5) and thereby rejecting the same without going into the merits.

2. *The ld CIT Exemption erred in law and on facts in cancelling the provisional registration granted on 26/03/2022 without following the due process of law and without affording opportunity of hearing to the appellant.*
3. *The ld CIT Exemption erred in law and on facts in cancelling the provisional registration granted on 26/03/2022 in absence of any dissatisfaction about genuineness of the activities of the appellant and in absence of any violation of conditions prescribed in clause (i) to (v) of Section 80G(5).*
4. *The appellant craves leave to add, alter, modify or substitute any ground of appeal at the time of hearing.”*

3. The facts, in brief, are that the assessee is a Trust. The assessee filed an application in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act on 22.09.2023. On receipt of the said application, Ld. CIT, Exemption had called for certain information/clarification vide letter dated 13.11.2023 in order to satisfy himself about the genuineness of the activities of the assessee, calling upon the appellant to comply with the said notice on or before 28.11.2023. The assessee could not comply with the said notice. Ld. CIT, Exemption without going into merits of the case rejected the application filed by the assessee vide order dated 16.03.2024. It was observed by Ld. CIT, Exemption that the assessee was required to file the aforesaid application on or before 30.09.2022, but the instant application was

filed belatedly i.e. on 22.09.2023 i.e. beyond the time limit allowed under clause (iii) of first proviso to section 80G(5) of the IT Act. It was also found by Ld. CIT, Exemption that as per CBDT Circular No.8/2022 dated 31.03.2022 the extended date for filing such application was 30.09.2022 and therefore it was mandatory for the assessee to file the aforesaid application on or before 30.09.2022. In the light of this observation, it was held by Ld. CIT, Exemption that the time limit prescribed is mandatory and the Commissioner of Income Tax has no power to condone the delay in filing application in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act.

4. Being aggrieved with the above decision of Ld. CIT, Exemption, the assessee is in appeal before this Tribunal.

5. Ld. AR submitted before us that the CBDT in a recent Circular No.7/2024 dated 25.04.2024, after considering the difficulties faced by the assessee in online uploading of Form No.10AB, has permitted the assessee to file application in Form No.10AB on or before 30.06.2024. It was also informed to us that this circular also clarifies that the applications which have already been decided against the assessee on the basis of belated filing of

such application, the assessee can file a fresh application in Form No.10AB on or before 30.06.2024. In the light of this circular, the counsel of the assessee requested before the Bench to set-a-side the impugned order passed by Ld. CIT, Exemption for *de novo* consideration of the application earlier filed by the assessee in Form No.10AB.

6. In the light of above-said circular, Ld. DR fairly accepted the contention raised by the counsel of the assessee.

7. We have heard ld. Counsels from both the sides and perused the material available on record. It is quite clear that the CBDT has recently issued a Circular No.7/2024 dated 25.04.2024 which reads as under :-

“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 25 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.*

*Sd/-
(Vikas Singh)
Director (ITA-I)”*

8. In the above circular, the CBDT has granted liberty to the assessee to file fresh application in Form No.10AB for registration under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act on or before 30.06.2024. Therefore, we deem it fit to provide one more opportunity to the assessee and direct Ld. CIT, Exemption to decide the application afresh after providing reasonable opportunity of hearing to the assessee. Ld. CIT, Exemption shall decide the application as per fact and law considering the earlier application as filed within time limit. The assessee is also directed to respond to the notice issued by Ld. CIT, Exemption and submit the requisite details on the appointed date without seeking any adjournment under any pretext, failing which Ld. CIT, Exemption is at liberty to pass appropriate order as per fact and law. We hold and direct accordingly. Thus, the grounds of

appeal raised by the assessee in the present appeal are accordingly allowed.

9. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 21st day of June, 2024.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21st June, 2024.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT Exemption, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.