

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

ITA Nos.1173 & 1174/Ahd/2024

Shri Krishna Seva Education Trust, Plot No.302, Ward No.11/B, Janta Colony, Gandhidham (Kutch) – 370 201 (Gujarat) [PAN – AAOTS 1026 L]		Vs.	The Commissioner of Income Tax (Exemption), Room No. 609, 6 th Floor, Income Tax Office (Vejalpur), Near Sachin Tower, 100 Foot Road, Anandnagar-Prahladnagar Road, Ahmedabad-380 015.	
(Appellant)			(Respondent)	
Assessee by	Shri Mehul K. Patel, Advocate			
Revenue by	Shri Sudhendu Das, CIT-DR			
Date of Hearing	19.06.2024			
Date of Pronouncement	25.06.2024			

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

1. These two appeals are filed by the applicant Trust against two different orders dated 20.09.2023 & 27.09.2023 passed by the Commissioner of Income Tax (Exemption), Ahmedabad.

2. Firstly we are taking up, the appeal being ITA No. 1173/Ahd/2024 against the order u/s 10(23C) of the Income Tax Act, 1961 passed by the CIT(Exemption). The applicant is a Charitable Trust filed application for approval u/s 10(23C) of the Income Tax Act, 1961 on 31.03.2023. The CIT(E) called upon the applicant for certain details/documents vide notice dated 10.08.2023 and 01.09.2023 especially the genuineness of the activities of the trust or institution, the activities of trust or institution are in consonance with the objects of the trust or institution and other laws material for the purpose of achieving objects. The Applicant did not respond the said notices and therefore, the CIT(Exemption) rejected the application filed in Form No. 10AB for approval u/s 10(23C) of the Income Tax Act, 1961 as applicable from 01.04.2021 and cancelled the provisional approval vide order dated 20.09.2023.

3. Being aggrieved by the order dated 20.09.2023, the applicant filed present appeal before us.

4. The Ld. AR submitted that non conversant of the Income Tax matters as well as not operating the computers or log in to the Income Tax portal, the applicant could not follow the procedure under the impression that since there was not income tax litigation faced by the Trust in the past. Hence, there was delay of 193 days in filing the present appeal for which may be condoned. The Ld. AR submitted that the applicant was not conversant of the Income Tax Portal, the applicant was not aware about the hearing notices issued by the CIT(Exemption) and could not represent their case properly. The Ld. AR submitted that the CIT(Exemption) passed ex-parte order therefor, the matter may be remanded back to the file of the CIT(Exemption) for proper adjudication of the application of the applicant trust after taking cognizance of the documents/details as required under the Income Tax Statute.

5. The Ld. DR relied upon the order dated 20.09.2023 passed by the CIT(Exemption).

6. We have heard both the parties and perused all the relevant material available on record. There is a delay of 193 days in filing the present appeal for which the applicant trust has filed the condonation of delay application. The reasons stated therein appears to be genuine, hence the delay is condoned. It is pertinent to note that the applicant was not aware about the log in to the Income Tax Portal and was under bona fide belief that the applicant trust filed all the required documents. Besides this the applicant's CA has also not followed the procedure and being the lapse on the part of the professionals, the applicant cannot be penalised. The CIT(Exemption) passed ex-parte order without giving sufficient opportunity to the applicant to submit the details/documents. Therefore, it will be appropriate to remand back this matter to the file of the CIT(Exemption) for allowing the applicant to file the required details as per Income Tax Statute within the stipulated time given by the CIT(Exemption). The CIT(Exemption) after taking cognizance of the said details decide the applicant filed by the applicant as per the Income Tax Statute. Needless to say, the applicant be given opportunity of hearing by following principles of natural justice. It is pertinent to note that, the applicant will fully cooperate with the proceedings and will promptly participate as well as file details within stipulated time. If the applicant fails to do so, the CIT(Exemption) will note the same and decide

the case accordingly as per law. Thus, ITA No.1173/Ahd/2024 is partly allowed for statistical purpose.

7. Now, coming to the appeal being ITA No. 1174/Ahd/2024 which is filed by the applicant against the order dated 27.09.2023 passed by the CIT(Exemption) under Section 80G of the Income Tax Act, 1961. There is a delay of 186 days in filing the appeal for which the applicant filed the detailed affidavit and from perusal of the same, the delay appears to be genuine, hence delay is condoned. As regards the facts, the applicant filed application for approval under Clause (iii) of first proviso to sub-section (5) of Section 80G of the Income Tax Act, 1961 in Form No. 10AB electronically and notices were issued to the applicant. The applicant filed Form No. 10AB under Section 80G(5) of the Act on 31.03.2023. The date of registration/incorporation in this case was 29.07.2008 as per Form 10AB. The Applicant had granted order for provisional approval in Form No. 10AC issued on 04.01.2022 under Clause (iv) of first proviso to sub-section (5) of Section 80G for the period commencing from 04.01.2022 to A.Y. 2024-25. The CIT(Exemption) issued notice dated 04.08.2023, but the applicant failed to file the details. Hence the CIT(Exemption) assumed the commencement date of incorporation/ creation/ registration i.e. 29.07.2008. The applicant was required to file application in Form 10AB in this case on or before 30.09.2022. Thus, the CIT(Exemption) rejected the application as not maintainable as the same was not filed within the stipulated time prescribed under the Income Tax Act, 1961. The Ld. AR submitted that since the application for registration u/s 12A was rejected ex-parte as well as the present order in respect of application under Section 80G was also passed ex-parte, the matter may be remanded back as the CBDT in Section 80G application has extended the time as per Circular dated 25.04.2024 being Circular No. 7/2024.

8. Since the appeal wherein the application filed by the applicant u/s 12AB is remanded back to the file of the CIT(Exemption), the present issue under Section 80G application also needs verification as the order is passed ex-parte without giving sufficient time for applicant to file the details. Hence, it will be appropriate to remand back this matter to the file of the CIT(Exemption) for allowing the applicant to file the required details as per Income Tax Statute within the stipulated time given by the CIT(Exemption). The CIT(Exemption) after taking cognizance of the said details decide the applicant filed by the applicant as per the Income Tax Statute as well as the Circular No. 7 of 2024 dated 25.04.2024 issued by the CBDT. Needless to say,

the applicant be given opportunity of hearing by following principles of natural justice. It is pertinent to note that, the applicant will fully cooperate with the proceedings and will promptly participate as well as file details within stipulated time. If the applicant fails to do so, the CIT(Exemption) will note the same and decide the case accordingly as per law. Thus, ITA No.1174/Ahd/2024 is partly allowed for statistical purpose.

9. In result, both the appeals of the applicant trust are partly allowed for statistical purpose.

Order pronounced in the open Court on this 25th June, 2024.

Sd/-
(MAKARAND VASANT MAHADEOKAR)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 25th June, 2024

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad