

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
ITA No. 1300/Mum/2024 (A.Y.2022-23)**

Palghar District Basketball Association

1, Swagat Bhavan, Opp. MSEB
Colony, Near Indian Oil,
Station Road, Vasai Road (East)
Maharashtra – 401202
PAN: AAFAP2797K

..... Appellant

Vs.

CIT(E)

R. No. 322, 3rd Floor,
ITO, PMT Building,
Shankar Seth Road,
Pune – 411 037

..... Respondent

Appellant by : Shri Darpan Jawale, Ld. AR
Respondent by : Ms. Madhu Malti Ghosh, Ld. DR
Date of hearing : 13/06/2024
Date of pronouncement : 19/06/2024

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of Ld. CIT (Exemption) dated 29.09.2022 u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2022-23. The assessee has raised the following grounds of appeal:-

On the facts and circumstances of the case the Ld. CIT (Exemption) erred in;

- 1. Rejecting the application which was filled u/s 80G before the CIT (Exemption) on the grounds the Trust has not responded to the hearing notices in the course of proceedings. Whereas the notice of hearing was not received by the assessee as the notices were sent to the incorrect e-mail address.*
- 2. Not considering the fact that the applicant had no information about the receipt of notices, as the notices was issued by the Department on wrong email address ie viswanatha581974@gmail.com wherein the correct email address registered with the department is viswanathan581974@gmail.com.*
- 3. The appellant prays before the Hon'ble Tribunal that kindly remand back to CIT (Exemptions) as this is a genuine case and we have relevant documents and evidence pertaining to the case.*
- 4. The appellant hereby craves the leave to add to, alter or amplify the aforesaid grounds of appeal, as and when the need arises/ at the time of hearing.*

2. The brief facts of the case are that the assessee is a Trust with a status of AOP filed an application before the Ld. CIT (Exe.), Pune in Form No. 10AB u/s. 80G(5) on 31.03.2022 to get registered with the office of Ld. CIT (E), under the aegis of section 80G of the Act.

3. Palghar District Basketball Association is registered under The Societies Registration Act, 1860 vide Reg. No. MAH/2254/16/THANE and under The Bombay Public Trusts Act, 1950 vide Reg. No. F/35636/THANE. It is an Association of Persons (AOP) working for the benefit of the members of the society. The Certificate of Registration is attached as per Annexure 1 (Pg. 19). The appellant applied for provisional registration under sub-clause (A) of clause (iv) of first proviso to sub-section (5) of section 80G of The Income Tax Act, 1961 vide Form No.10A on 19-10-2021. Further, the appellant was granted provisional registration u/s 80G of the Act in Form No.10AC on 27-10-2021 valid from A.Y. 27-

10-2021 to A.Y. 2024-25. The order of provisional approval in Form No.10AC is attached as per Annexure 2 (Page 22). The appellant then applied for final registration under clause (iii) of first proviso to sub-section (5) of section 80G of The Income Tax Act, 1961 vide Form No.10AB on 31-03-2022. The same is attached as per Annexure 3 (Page 24).

4. With regards to the above application, a notice was issued through ITBA portal on 03-08-2022 and 14-09-2022 requesting to upload information / clarification with a view to verify the genuineness of activities of the appellant, to which the appellant failed to respond as the notices were issued by the department on the incorrect email address. The said notices are attached as per Annexure 4 (Page 33) and Annexure 5 (Page 38) respectively. The appellant did not receive such notices issued by the department as these notices were issued on an incorrect email id. As a result, the appellant failed to respond to the notices. And since, the appellant did not respond to the above- mentioned notices, the application before the CIT (Exemptions) for obtaining registration u/s 80G of the Income Tax Act, 1961 was disposed of by an order dated 29-09-2022 passed by Commissioner of Income Tax (Exemptions), wherein the CIT (Exemptions) has rejected the application on the grounds that the Trust has failed to respond to the notices in the course of proceedings. The same is attached as per the Annexure 6 (Page 40).

5. It is apparent from the submissions and documents placed before us that the correct email ID was [viswanathan581974@gmail.com.](mailto:viswanathan581974@gmail.com), whereas the whole communications were done at email ID [viswanatha581974@gmail.com.](mailto:viswanatha581974@gmail.com) In view of this, it is established that communications from the office of Ld. CIT(Exe.) were

never received by the assessee, hence is not able to participate in the hearings before him. The appeal of the assessee filed before us on 21.03.2024 i.e. time barred as the due date of filing the same was 28.11.2022 {60 days from the date of order passed by Ld. CIT (Exe)}, but as observed (supra), assessee was not able to receive the notices as well as final order passed by the Ld. CIT (Exe.), hence there is a delay of 539 days for that the assessee filed an application alongwith affidavit for condonation of delay before us. Its a trite law that application u/s. 80G can never be accepted in isolation i.e. without getting appropriate approval u/s. 12A of the Act. So in this matter also, we can reasonably presume that the assessee has already been u/s 12A of the Act and with this fact and the facts narrated (supra), bonafide of the assessee cannot be doubted upon.

6. Based on above, the delay in filing of appeal before us is condoned and also observed that communications were sent on wrong email ID. In view of this, the matter of the assessee is restored back to the file of Ld. CIT (Exe.) for fresh consideration after giving assessee a proper opportunity on correct email ID and assessee is directed to cooperate and participate in the proceedings without fail and seeking any adjournment.

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

Order pronounced in the open court on 19th day of June, 2024.

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 19/06/2024

Dhananjay, Sr. PS

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai