

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 862/CHNY/2024

**M/s. Madurai Govindammal
Educational Trust,**
291, Kadalur Salai,
Kadagapattu Village,
Cheyyur Taluk – 603 312.

**The Commissioner of
Income Tax (Exemption),
Chennai.**

PAN: AAFTM 9368N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri M. Karunakaran, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing : 24.06.2024
घोषणा की तारीख/Date of Pronouncement : 24.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Exemption), Chennai dated 11.03.2024, rejecting Form No.10AB filed for seeking approval under clause (iii) of first proviso to section 80G(5) of the Income Tax Act, 1961 (hereinafter the 'Act').

2. The only issue in this appeal of assessee is against the order of CIT(Exemption) rejecting the application filed in Form No.10AB and cancelling the approval granted u/s. 80G of the Act, treating the same as belated. For this, assessee has raised various grounds which are factual or argumentative and hence, need not be reproduced.

3. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee has filed application in Form No.10AB on 30.09.2023 for granting approval u/s.80G(5) of the Act but CIT(E) has rejected the assessee's application filed in Form No.10AB as time barred by holding that the application should have been filed in Form No.10AB by the extended date of 30.09.2022. The assessee submitted that it was under bonafide impression that the date extended by the CBDT for filing Form 10AB for recognition u/s.12AB and also for filing Form 10A for recognition u/s.80G of the Act to 30.09.2023 would be applicable to Form No.10AB for getting approval u/s.80G of the Act. The assessee before us in its grounds of appeal and statement of facts contended that the timeline prescribed under clause (iii) of first proviso to section 80G(5) of the Act should be treated as directory and not mandatory especially considering the transitional nature of the

amendment as brought out by the Taxation of other laws (Relaxation and Amendment of certain provisions) Act, 2020 and therefore, the CIT(E) should have condoned the delay in filing Form No.10AB for grant of approval u/s.80G(5) of the Act. We find that this issue now stands covered by the Co-ordinate Bench decision in the case of Teddy Trust in ITA No.1315/Chny/2023, order dated 10.04.2024, wherein the Tribunal has considered the entire factum and also considered the decision of Hon'ble Madras High Court in the case of Sri Nrisimha Priya Charitable Trust in WP Nos.27030 & ors. of 2024, order dated 02.04.2024 and held as under:-

5. It is admitted fact that the assessee is an old trust and it has already commenced its activities on 17.01.1992. It could further be noted that the assessee has already received provisional approval u/s 80G(5)(iv) for a period commencing from 21.10.2022 to AY 2025-26. It sought approval u/s 80G(5)(iii) by filing Form No.10AB on 30.03.2023 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 as under: -

7.8 After hearing the arguments of ld. counsel for the assessee and ld. CIT-DR as noted above, we find from the facts that the timeline prescribed for filing Form No.10AB for registration u/s.12A of the Act in the case of assessee trust has been extended up-to 30.09.2023 after considering the genuine hardship faced by charitable institutions vide various CBDT circulars and finally, vide Circular No.6/2023 dated 24.05.2023. Similarly, the timeline prescribed for filing Form No.10A for recognition u/s.80G of the Act was also extended up-to 30.09.2023 by the same circular for trusts filing registration under clause (i) to first proviso to section 80G(5) of the Act. But the above extension was not extended

beyond 30.09.2022, unlike other forms which were extended up to 30.09.2023 to the disputed forms namely Form No.10AB for renewal of recognition u/s.80G(5) of the Act under clause (iii) of the first proviso to section 80G(5) of the Act. Once, the CBDT has extended the timeline for filing Form No.10AB for recognition u/s.12A of the Act and also for filing Form No.10A for recognition u/s.80G of the Act extended up to 30.09.2023 for trusts filing registration under clause (i) of first proviso to section 80G(5) of the Act, we find no difference in continuing hardship as recognized by CBDT even in filing Form No.10AB for renewal of recognition u/s.80G of the Act under clause (iii) of first proviso to section 80G(5) of the Act. In our view, this being a genuine hardship case, which is recognized by Revenue or CBDT by issuing a general circular, we are of the view that this specific provision of clause (iii) to first proviso to section 80G(5) cannot be excluded and or it has not been the intention of the CBDT while issuing the circular. There cannot be a distinction within the same provision without bringing out any exception and even this provision is for the benefit of the donors who are donating money to the charitable trusts for claiming exemption in their returns of income. In our view, we agree with the argument of Id. counsel for the assessee that the timeline prescribed under clause (iii) of first proviso to section 80G(5) of the Act should be treated as directory and not mandatory especially considering the transitional nature of the amendment as brought out by the taxation of other laws (relaxation and amendment of certain provisions) act 2020 for bringing new regime. Hence, in our view, the CIT(Exemptions) should not have rejected the assessee's application in Form No.10AB only for this technical reason. We are of the view that the intention of CBDT in its circular clearly reflects their mind that once the timeline prescribed for filing Form No.10AB for recognition u/s.12A of the Act has been extended up to 30.09.2023, the same may be treated as extended for forms namely Form No.10AB for renewal of approval/recognition/registration under clause (iii) of first proviso to section 80G of the Act also. Hence, we accept the plea of assessee and agree with the arguments of Id. counsel for the assessee and remand the matter back to the file of the CIT(Exemption) to decide the issue on merits. Hence, the order of CIT(Exemption) on this issue is set aside and matter is remanded back to the file of the CIT(Exemption) for redeciding the issue on

merits as per law. The appeal of the assessee is allowed for statistical purposes.

The bench thus held that the extended time limit of 30.09.2023 as per CBDT Circular would apply to Form No.10AB as well.

6. 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. It has been held as under: -

7. In the result, these Writ Petitions are allowed on the following terms: - (i) The clause 5(ii) of Circular No.6 of 2023 bearing F.No.370133/06/2023-TPL, dated 24.05.2023 of the first respondent is declared as illegitimate, arbitrary, and ultra vires the Constitution of India;

(ii) The respondents are directed to consider the applications submitted by the petitioners as to the recognition/approval in respect of clause (i) of the first proviso to sub-section (5) of section 80G of the Act as within time and consider the same and pass orders thereon on merits, in accordance with law within six months from the date of receipt of a copy of this order;

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

4. We further noted that the CBDT has extended the due date for filing of Form No.10A / 10AB till 30.06.2024 vide Notification F.No.173/25/ 2024-ITA-I, Circular No.7/2024 dated 25th April, 2024. In view of the above, we set aside the order of CIT(E) and remand the matter back to his file for fresh adjudication on merits. In term

of the above, the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 24th June, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 24th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.