

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI
BEFORE SHRI B R BASKARAN, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA No. 454/Mum/2024
(Assessment Year: 2024-25)

Siddhim Global Education B 301, Om Sai Niwas Opp. Madrashi Ram Mandir, Vile Parle (E), Mumbai-400 0057	Vs.	CIT (Exemptions) Room No. 601, 6 th Floor, Cumballa Hill MTNL TE Building, Peeder Road, Dr. Gopalrao Deshmukh Marg, Mumbai – 400 026
PAN/GIR No. ABDTS 1395 N		
(Assessee)	:	(Respondent)
Assessee by	:	Ms. Mamta Gupta
Respondent by	:	Ms. Rajeshwari Menon
Date of Hearing	:	09.05.2024
Date of Pronouncement	:	05.07.2024

ORDER

Per Kavitha Rajagopal, JM:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Exemptions) ('Id.CIT(E)' for short), on the ground of rejection of section 80G registration, pertaining to the Assessment Year ('A.Y.' for short) 2024-25.

2. The brief facts are that the assessee is a public charitable trust, established on 20.01.2022 having its main object to carry out Education, Medical Relief, Relief for the poor as well as advancement of objects of general public utility. The assessee was granted provisional registration under clause 12(iv) of provision to sub section 5 of section 80 dated 09.02.2022 upto A.Y. 2024-25. The assessee trust had applied for regularization of approval along with the necessary documents after which the assessee

have received notice from CPC dated 08.02.2023 and 25.02.2023, which the assessee contends that was complied with. The said application of the assessee was rejected by the Id. CIT(E) for the reason that the assessee has not provided the proof of activities carried out by the Trust and the expenses incurred thereby, not fulfilling the condition stipulated for approval in Form 10AB with liberty to reapply in Form No. 10AB along with necessary documents/enclosure as per Rule 11AA(2) of the I. T. Rules. Subsequently, the assessee contends that the Id. CIT(E) had again rejected the application of the assessee by an order dated 19.01.2024 in Form No. 10AD, without any opportunity of hearing given to the assessee, on the ground that the assessee has applied under clause (ii) of first proviso to sub section 5 of section 80G which is for renewal of approval instead of filing for regularization of provisional approval. The assessee reasons the discrepancy stating that the only portal that was open under 80G(5) for regularization of provisional registration at the time of filing Form No. 10AB was under sub clause (ii) and the other portals including sub clause (iii) with CPC did not open inspite of several attempts made by the assessee. The assessee denies of opportunity for rectifying the mistake which was not wanton or deliberate and was merely due to technical glitches. The assessee further contends that the communication of the rejection order was only posted on e-proceeding section of e-portal and had not been communicated to the assessee via email/mobile/postal address of the assessee. The assessee also stated that there was hardship caused to the assessee due to the latest amendment brought about in the Act for registration of the trust under the new regime of section 80G along with technical glitches and will cause prejudice, if not given an opportunity to rectify the mistake caused in filing the application for regularization of provisional approval.

3. Upon considering the rival submissions and on perusing the materials available on record, we are of the considered opinion that there has been no default caused by the assessee in applying for the regularization of the provisional approval u/s. 80G of the Act which was merely due to technical glitches. The Id. CIT(E) in the impugned order has merely stated that the rejection is due to the fact that the assessee instead of applying in clause (iii) had applied in (ii) of first proviso to sub section 5 of section 80G of the Act. Apart from this, the Id. CIT(E) has not specified any other reason for rejecting the assessee's application for regularization of the provisional approval. Hence, we consider it appropriate to direct the Id. CIT(E) to grant the necessary approval on the fresh application to be filed by the assessee in Form No. 10AB and to allow the same if it is in accordance with law. As the provision says that the application for regularization has to be made atleast six months prior to the expiry of the provisional approval or within six months of commencement of its activities, whichever is earlier, delay if any due to adjudication of the present appeal shall be condoned and to be considered that the assessee has made its application at the first instance when such time was originally due.

4. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 05.07.2024

Sd/-

(B R Baskaran)
Accountant Member

Sd/-

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 05.07.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai