

आयकर अपीलिय 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**

ITA Nos.	Appellant	Respondent
ITA No.1356/CHNY/2024	M/s. Guru Hasti Unity Foundation, 4F4, 4 th Floor, Metro Towers, 115, Poonamallee High Road, Chennai – 600 084. PAN: AADTG 8839L	The Commissioner of Income Tax (Exemption), Chennai -34.
ITA No.1357/CHNY/2024	M/s. Bhairawa Animal Welfare Trust, No.364, Door No.2, Swastik Apartments, MKB Nagar, Vyasarpadi, Chennai – 600 039. PAN: AADTB 5883H	The Commissioner of Income Tax (Exemption), Chennai -34.
ITA No.1358/CHNY/2024	M/s. The Til Foundation, Jhaver Centre Plaza, Rajah Annamalai Building, No.72, Marshall Road, Egmore, Chennai – 600 008. PAN: AADTT 6144R	The Commissioner of Income Tax (Exemption), Chennai -34.
ITA No.1359/CHNY/2024	M/s. Jain Annapurna Trust, AK 106, AK 24, 10 th Main Road, Shanthi Colony, Anna Nagar, Chennai – 600 040. PAN: AADTJ 9103C	The Commissioner of Income Tax (Exemption), Chennai -34.
ITA No.1360/CHNY/2024	M/s. Sri Hari Foundation, 18A, Avenue Road, Nungambakkam, Chennai – 600 034. PAN: ABCTS 3747D	The Commissioner of Income Tax (Exemption), Chennai -34.

अपीलार्थी की ओर से/Appellants by : Shri Kamal Chordia, FCA
प्रत्यर्थी की ओर से/Respondent by : Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing : 22.07.2024
घोषणा की तारीख/Date of Pronouncement : 24.07.2024

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

These appeals by the different assesseees are arising out of the different orders of the Commissioner of Income Tax (Exemption), Chennai dated 12.03.2024 / 11.03.2024 / 16.03.2024 / 18.03.2024, 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'). The issue involved in all these appeals of different assesseees is common and hence, by way of this common order, these appeals are being disposed off.

2. The only common issue in all these five appeals of different assesseees is as regards to the orders of CIT(Exemption) rejecting the application filed in Form No.10AB seeking approval under clause (iii) of first proviso to sub-section (5) of section 80G of the Act by holding that the application filed in Form No.10AB was barred by limitation. For this, assesseees have raised various grounds which are factual and argumentative and hence, need not be reproduced.

3. The grounds raised by assesseees in all these appeals are identically worded and facts and circumstances are exactly identical and hence, we will take the facts from ITA No.1356/CHNY/2024 in the case of M/s.Guru Hasti Unity Foundation.

4. Brief facts are that the assessee trust filed an application in Form No.10AB on 21.09.2023 seeking approval / recognition under clause (iii) of first proviso to sub-section (5) section 80G of the Act. The CIT(E) noted that the assessee has filed Form 10AB u/s.80G(5)(iii) of the Act on 21.09.2023. From Para 4b of said Form 10AB filed/Trust Deed, it is observed that the assessee has mentioned the date of incorporation / creation / registration as 28.06.2021. Further, the assessee has granted provisional approval in Form No.10AC issued on 24.09.2021 u/s.80G(5)(iv) of the Act, for the period commencing from 24.09.2021 to AY 2024-2025. The assessee is provisionally approved u/s.80G(5)(iv) of the Act and therefore, the assessee was required to file application in Form No.10AB u/s.80G(5)(iii) of the Act within the time period of at least six months prior to the expiry of period of the provisional approval or within six months of commencements of its activities, whichever is earlier. From the provisions of section 80G(5)(iii) of the Act, it is evident that the time limits prescribed therein is mandatory and the

CIT has no power to condone the delay in filing application in Form No.10AB. Hence, the CIT(A) rejected the assessee's applications by giving identical finding in all these appeals by observing in para 4.93 as under:-

“ 4.93. Hence, in view of the above and as explained in para 1 of this order, regarding the second proviso to sub section of section(5) of section 80G of the .T. Act, 1961, if the application is made under sub-clause (i) or sub-clause (ii) of section(5) of section 80G of the I.T. Act and the Principal Commissioner or Commissioner has not satisfied, he can reject the application as well as cancel the approval of the trust/institution.

In view of the above facts and circumstances of the case, its application dated 21.09.2023 filed in Form No. 10AB under clause (iii) of first proviso to section 80G(5) of the Income Tax Act, 1961, seeking approval u/s. 80G is not maintainable for the reasons stated in para 4.1 to 4.92 of this order and hence its application is rejected and its approval also cancelled.”

Aggrieved against rejection of assessee's applications filed in Form No.10AB u/s.80G(5)(iii) of the Act, the assessee came in appeal before the Tribunal.

5. We, after hearing both the sides and going through facts and circumstances of the case noted that this issue has already been deliberated by the Co-ordinate Bench of this Tribunal in the case of Teddy Trust in ITA No.1315/Chny/2023, order dated 10.04.2024 and further, by the 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. Considering the entirety of facts, we set aside the

order of CIT(E) and remand the matter back to his file for reconsideration of assessee's application. In term of the above, the appeal of the assessee is allowed for statistical purposes.

6. Similar are the facts in all other appeals in ITA Nos.1357 to 1360/CHNY/2024, hence, taking a consistent view, we set aside the orders of CIT(E) on same lines.

7. In the result, the appeals filed by the assesseees in ITA Nos.1356 to 1360/CHNY/2024 are allowed for statistical purposes.

Order pronounced in the open court on 24th July, 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 July, 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.