

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

**ITA No.1874/Mum/2024  
Assessment Year: 2024-25**

St. Xavier's Vile Parle Alumni Association		CIT (Exemptions), Mumbai
C/o. Glen Mascarenhas Greenlands, Ground Floor, Lajpatrai Road, Vile Parle (W), Mumbai-400056.	Vs.	
<b>PAN: AARCS 2448 E</b>		
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Mukesh  
Revenue by : Shri B. Laxmi Kanth, Sr. DR

Date of Hearing : 09.07.2024  
Date of Pronouncement : 31.07.2024

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

This appeal of the assessee for the assessment year 2024-25 is directed against the order dated 12.03.2024 passed by the Id. Commissioner of Income-tax (Exemptions), Mumbai. The assessee has raised the following grounds of appeal:

*"1. On the facts and in circumstances of the case as well as law, the Id. CIT (Exemption) erred in rejecting assessee's application made under S. 80G (5) of the Income Tax Act, 1961 on the ground that the application was filed beyond 6 months from the commencement of its activities.*

*2. Id. CIT (Exemption) has failed to appreciate the fact that the applicant is an old Trust/ Institution incorporated in the year 2012.*

*3. Id. CIT (Exemption) erred in recording an incorrect finding that the appellant has commenced its activities in the month of May, 2022. Id. CIT (Exemption) failed to appreciate that the appellant trust/ Institution is*

*already in existence for a decade and had commenced its activities long back before filing of the application for approval.*

*4. Ld. CIT (Exemption) failed to appreciate that the appellant having commenced its activities long back, it was impossible to comply with the requirement of filing an application for approval under S. 80G(5) within 6 months from the date of commencement of its activities. Ld. CIT (Exemption) failed to appreciate that only new trust/ Institutions could possibly comply with this requirement.*

*5: Ld. CIT (Exemption) erred in rejecting assessee's application under S. 80G(5) which was filed on 29/09/2023 i.e. prior to 6 months of the date of expiry of the current approval which was in force upto 31/03/2024.*

*6. Ld. CIT (Exemption) erred in passing the order for rejection of application under S. 80(G) without granting an opportunity of being heard in respect of the ground of rejection.*

*7. Without prejudice, the appellant beg for pardon and pray the Hon'ble bench of the Income Tax Appellate Tribunal to condone the delay and direct the Ld. CIT(Exemption) to grant the approval under S. 80G(5) of the Income Tax Act, 1961 with effect from 01/04/2024.*

2. The assessee has filed application in Form No. 10AB u/s 80G(5) of the Act for granting approval. The assessee has been granted provisional approval u/s 80G(5) of the Act in Form 10AC by CPC, Bangalore however the ld. CIT(E) has rejected the application filed by the assessee for grant of approval holding that same is not maintainable on the ground that assessee has not fulfilled the stipulated conditions prescribed for filing application for approval in Form 10AB. The ld. CIT(E) has also mentioned that assessee trust has started its activity in May, 2022, therefore, assessee has to file Form 10AB within 6 months from the date of professional approval i.e. November 2022. However, the assessee had filed Form 10AB of section 80G(5) on 29.09.2023.

3. Heard both the sides and perused the material on record. Without reiterating the fact as discussed above in this order, the assessee submitted that ld. CIT(E) has recorded wrong findings that the assessee has commenced its activities in the month of May, 2022 and rejected the application on the ground that same was filed beyond the limitation period prescribed under Clause (iii) of the first proviso to section 80G(5) of the Act. The assessee explained that time limit for making application within 6 months from the date of commencement of the activities could be possible only in case of new trust but the assessee is an old trust and has been carrying its activity since long and has made the application before 6 month prior to expiry of the period of provisional approval as provided in Clause (iii) of first proviso to section 80G(5) of the Act. The assessee has also submitted that in its submission dated 10.04.2024 that ld. CIT(E) has passed the order dated 12.03.2024 without providing proper opportunity of hearing to the assessee.

4. The extract of the order of ld. CIT(E) as under:

*“On verification of the facts and circumstances of the case, it is found that the assessee has started activity in May, 2022. In view of this the assessee has to file Form 10AB, six month from the date of provisional approval i.e. November 2022 while the assessee have filed Form 10AB of 80G on 29.09.2023. As such, the assessee is not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB. In view of the same, this application for grant of approval is not maintainable and the same is rejected.”*

5. The ld. CIT(E) has neither brought any material on record to substantiate that the assessee trust has started its activity in May, 2022 nor specified how the relevant stipulated conditions were not fulfilled by the assessee. Therefore, we consider it appropriate to

restore the case of the assessee to the ld. CIT(E) for passing speaking order on merit after providing opportunity to the assessee to make submission on the points raised and as discussed supra in this order. Needless to say that adequate reasonable opportunity be provided to the assessee. Therefore, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 31.07.2024.

**Sd/-**  
**(MS. KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 31.07.2024  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The CIT (A)
5. The DR

//True Copy//

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai