

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" , HYDERABAD**

BEFORE

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER
AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

ITA No.370/Hyd/2024		
Assessment Year: 2024-25		
Shri Srinivasa Seva Trust, 6-3-6/2, Vittanala Vari Palem, Amalapuram – 533201, Andhra Pradesh. PAN : ABBTS8739C.	Vs.	The Commissioner of Income Tax (Exemptions), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	None	
Revenue by:	Ms. T. Vijaya Lakshmi, CIT-DR	
Date of hearing:	25.07.2024	
Date of pronouncement:	12.08.2024	

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Exemption), Hyderabad dated 01.03.2024 for the AY 2024-25.

2. The assessee has raised the following grounds :

“1. The order passed by the learned Commissioner of Income Tax (Exemption) is bad in law and contrary to the provisions of law and facts.

2. The learned Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the Appellant Trust on the ground that the application filed in Form IOAé has not been filed within time limit prescribed and therefore it is nonmaintainable. On facts and circumstances of the case, the action of Ld. CIT (Exemption) of rejecting the application filed u/s 80G(5) of the Act is incorrect and unlawful and the approval u/s. 80G(5) of the Act ought to have been granted to the Appellant Trust.

3. The learned Commissioner of Income Tax (Exemption) has erred in rejecting the application filed u/s 80G(5)(iii) of the Act stating that the delay in filing of application cannot be condoned by him. It is submitted that the delay in filing of Application u/s 80G(5)(iii) is only because of bonafide reasons and circumstances prevailing beyond the control of the Appellant Trust at that time.”

3. Facts of the case, in brief, are that assessee has filed an e-application in Form No.10AB seeking registration u/s 80G(5) of the Income-Tax act, 1961. Thereafter, notice dated 28.10.2023 was issued in respect of proceedings u/s 80G(5)(iii) to the address mentioned in the Form 10AB, to produce the copy of Memorandum of Association/Trust deed for verification and to furnish a detailed reply on the specific information called for in the said notice. On perusal of reply given by the assessee, it was observed that the Form No.10AB was filed on 30.09.2023 though the commencement of activities is much earlier and hence, seeking registration u/s 80G(5) was not considered. In this regard a show cause notice dt 08.02.2024 was also issued. As the Form10AB was filed beyond the prescribed time limit as per the Finance Act,

2020, the application filed by the assessee in Form No.10AB seeking registration u/s 80G(5), was rejected.

4. Feeling aggrieved by the order passed by the ld.CIT (Exemptions), assessee filed appeal before us.

4.1 Before us, the ld.AR has reiterated the submissions made before the ld.CIT(E). The ld.AR submitted that assessee was not able to file Form 10AB within the stipulated time due to technical errors and that it was not intentional and requested for condonation of the delay happened in filing Form 10AB. The ld.AR further requested that the assessee may be given one more opportunity for filing of complete details sought for by the ld.CIT(E).

5. Per contra, ld.DR supported the order of ld.CIT(E) and submitted that as per Finance Act, 2020, assessee has to apply for a registration by submitting by Form No.10AB on or before 30.09.2022. However, in the present case, the assessee has filed Form No.10AB on 30.09.2023 and hence, the ld.CIT(E) has rightly rejected the registration sought for by the assessee. Therefore, he pleaded to uphold the order passed by ld.CIT(E).

6. We have heard both the parties and perused the material on record. On perusal of the order of Id.CIT(E), it is clear that assessee has not filed form 10AB within the stipulated time due to technical errors and that Id.CIT(E) rejected the application for registration in Form 10AB as the same has to be decided in time bound manner and as the assessee filed the same beyond the prescribed time limit as per the Finance Act, 2020. However, considering the facts that the delay was caused due to technical errors and was not intentional, in view of the principles of natural justice, it would be appropriate if the issue is remanded back to the file Id.CIT(E) giving one more opportunity to the assessee to file Form 10AB within the stipulated time as per the Finance Act, 2020. Further, we note that the Board has also issued guidelines for condoning the delay in filing the requisite forms by the persons like the assessee before us. Accordingly, we set aside the impugned order and direct the CIT(E) to denovo consider the assessee trust application as per the law and we allow the grounds of appeal of the assessee for statistical purposes

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 12th August, 2024.

Sd/-

Sd/-

(G. MANJUNATHA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 12.08.2024.

TYNN/sps

Copy to:

S.No	Addresses
1	Shri Srinivasa Seva Trust, 6-3-6/2, Vittanala Vari Palem, Amalapuram – 533201, Andhra Pradesh.
2	The Commissioner of Income Tax (Exemptions), Hyderabad.
3	Pr.CIT, Hyderabad / CIT (Exemptions), Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order