

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

श्री टी.आर. सेंथिल कुमार, न्यायिक सदस्य एवं
श्रीमकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
& SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

I.T.A. No.550/Ahd/2024
(Assessment Year: N.A.)

Manav Seva Mandir, 0, At & P.O. Amlai, Modasa Arvalli, Gujarat-383315 [PAN No.AADTM8486H]	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
(Appellant)	..	(Respondent)

Appellant by :	Ms. Krupa Panchal, C.A.
Respondent by:	Shri H. Phani Raju, CIT DR

Date of Hearing	19.08.2024
Date of Pronouncement	20.08.2024

ORDER

PER MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER:

This appeal has been preferred by the assessee against the order dated 20/09/2023 passed by the Commissioner of Income Tax (Exemption), Ahmedabad [hereinafter referred to as "CIT(E)"], rejecting the application for registration under section 80G(5) of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. The assessee has raised the following grounds of appeal:

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1. *It is the duty of office to consider all the facts while passing the order for 80G(5), which is not done in our case. Due to that reason, we have applied for appeal before your honor.*
2. *The Ld. CIT (exemption) has passed order for rejection u/s. 80G(5).*
3. *The assessee hasn't received any notice or communication for hearing via email, message and by post from the department.*
4. *We may be allowed to add or alter or modify the ground of appeal.*

PRAYER

1. *To instruct the Ld. CIT (exemption) to give opportunity for being heard and allow for registration process u/s 80G(5) .*
2. *We may be allowed to add or alter or modify the ground of appeal.*
3. *To give such other relief as may be necessary.*

3. The assessee has also filed an application for the condonation of delay of 129 days in filing this appeal. The explanation provided is that the assessee was unaware of the notices uploaded on the e-portal by the CIT(E) due to not receiving any communication by email, message, or post. Consequently, the assessee could not comply with the notices dated 04/08/2023 and 31/08/2023, resulting in the rejection of the application under section 80G(5).

4. During the course of the hearing, the Departmental Representative (DR) confirmed that the office of the CIT(E) did not serve the email notice to the assessee due to a technical error. The DR submitted an email confirmation from the CIT(E)'s office, stating that the email ID of the assessee could not be fetched due to a technical issue when the order was sent. Consequently, the rejection order could not be served on the assessee's email. However, the DR also pointed out that the assessee could have logged into the e-portal to access any

notices or orders and would have received alerts on the registered mobile number regarding such communications.

5. We have carefully considered the grounds of appeal, the facts of the case, the affidavit filed by the trustee, the application for condonation of delay, and the submission made by the DR. The affidavit affirms that the delay was not due to any ill motive but due to a lack of communication from the department.

6. In light of the email confirmation from the CIT(E)'s office, it is evident that the assessee was not properly served with the notice or order via email, which constitutes a significant lapse in the process. We find support from the decision of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition, Anantnag and Anr. v. Mst. Katiji and Ors.* [AIR 1987 SC 1353], where it was held that the expression "sufficient cause" under Section 5 of the Limitation Act, 1963, should be interpreted liberally to serve the ends of justice.

7. Considering the facts and circumstances of the case, including the technical error acknowledged by the CIT(E)'s office, we are of the view that the delay in filing the appeal should be condoned.

8. On the merits of the case, we observe that the assessee has not been provided with an adequate opportunity to be heard before the rejection of the application under section 80G(5). Natural justice

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demands that the assessee should have been given a fair opportunity to present their case.

9. In light of the above, we set aside the order of the CIT(E) dated 20/09/2023 and restore the matter back to the file of CIT(E) with a direction to decide the issue afresh on merits after providing a reasonable opportunity of being heard to the assessee.

10. In the result, the delay is condoned, the order of the CIT(E) is set aside, and the matter is remanded back to the CIT(E) for a fresh decision on merits.

11. The appeal is allowed for statistical purposes.

This Order pronounced in Open Court on 20/08/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 20/08/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad