



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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRIRAHUL CHAUDHARY, JM

ITA No. 1608/MUM/2024

A.Y.2023-24

Grameen First Development
Foundation, 108, Bldg.
No.A2, Phase I- Green
Glade, Abachapada, Devkhop Vs.
Villa Ge Palghar, Thane
(Appellant)
PAN
Assessee by
Revenue by

Exemption Ward, Thane
Quereshi Mansion

(Respondent)
AAJCG0602J
Shri Paras Manot
Dr Kishor Dhule, CIT(DR),

Date of hearing

27th June, 2024

Date of pronouncement

23rd August 2024

ORDER

PER PRASHANT MAHARISHI, AM:

1. This appeal is filed by the Grameen First Development Foundation (the assessee/appellant) against the order of the learned CIT, Exemption [learned CIT(E)], Pune dated 29.06.2023 wherein the application filed by the assessee in Form No.10AD for recognition u/s.80G(5) of the Income Tax Act, 1961 (the Act) on 02.12.2022 was rejected and provisional approval granted on 18.10.2021 was also cancelled.



2. This is only the grievance of the assessee in ground of appeal raised stating that the learned CIT(E) did not provide opportunity of being heard in the matter due to technical error.
3. The appeal is delayed by 219 days as per the report of the Registry. The assessee has requested for condonation of delay by filing an application stating that the appeal could not be filed within stipulated 60 days period because of the reason that the assessee did not receive the notice pertaining to the order passed u/s.80G of the Act due to inactive email id , therefore, the appeal could not be filed. The learned Authorized Representative submitted that the delay is due to non-receipt of the order.
4. The learned Departmental Representativesubmitted that the delay in appeal does not have any sufficient cause and, therefore, it should not be admitted.
5. We have carefully considered the rival contentions and we find that the order was passed on 29.06.2023. However, as stated by the assessee it could not be received by the assessee due to the inactive status of email registered on the I.T. portal. The assessee came to know about the order somewhere around March 2024. The assessee immediately filed the appeal by paying the Tribunal fees on 29.03.2024. The appeal came to be filed on 03.04.2024. As the case of the assessee is of charitable trust and the cause shown is inactive e-mail on the web portal, therefore, due to technical glitches the assessee could not receive the order. As soon as it has come to the notice of assessee, Appeal fees was paid, and appeal was filed. It caused the delay. There is no benefit to the assessee in not filing an appeal in time. The delay is also not due to any malafide intention. While condoning the delay a practical approach should be adopted instead of any pedantic approach. Therefore, we condone the delay and admit the appeal.



6. The brief fact of the case shows that the assessee filed an application to learned CIT(E), Pune in Form No.10AB for recognition u/s.80G(5) of the Act on 02.12.2022. The assessee could submit some of the details out of the several details called for as per notice dated 13.03.2023. The notice was issued through e-portal, e-mails and speed post. The learned CIT(E) found that there are various discrepancies and, therefore, another notice dated 20.06.2023 was issued. The learned CIT(E) found that out of the total receipts of Rs.11 lakhs only Rs.75,000/- are donations and other receipts are of commercial activities. Therefore, he was of view that assessee is carrying activities of 'general public utility' and, therefore, as per decision of the Hon'ble Supreme Court in the case of Ahmedabad Urban Development Authority should be applied and application should be rejected. All other consequent questions were also raised. Importantly He also noted that the date of the commencement of the activity is July 2021 and, therefore, the limitation period for filing such application would also be applicable. He considers various Circulars of the Central Board of Direct Taxes and in the end held that the present application filed in Form No.10AB for registration u/s.80G(5) of the Act is liable to be rejected as not filed in time. Without going into the merits, he holds that as assessee has not filed the present application within the time allowed under Clause (iii) of first proviso to Section 80G(5) of the Act, it is to be rejected by order dated 29.06.2023, which is under challenge.
7. The assessee submitted that the assessee is a nonprofit Company engaged in the charitable object having the main object of humanitarian relief and social service in the field of education, healthcare for rural communities. The assessee submitted that all the receipts over and above the donation of Rs.75,000/- are for charitable objective and assessee is not carrying on object of general public utility but other charitable objects as specified u/s.



u/s.2(15) of the Act. It was submitted that the assessee has been granted Provisional Registration in Form No.10AC from October 2021 till Assessment Year 2024-25. The assessee was required to file the present application on or before 17.04.2022, which was extended upto 13.09.2022. However, due to unavoidable circumstances, the assessee applied for final registration on 02.12.2022. The learned CIT(E) has rejected the application of the assessee without giving any opportunity of hearing. Therefore, the assessee must be granted an opportunity of hearing to present its case.

8. The learned CIT(DR) vehemently submitted that the assessee was issued show cause notice on 20.06.2023, which was not replied by the assessee. Hence, no fault can be found with the order of the learned CIT(E).
9. The learned Authorized Representative in rejoinder submitted that as the email ID of the assessee was inactive, such notice could not be replied to. It was submitted that the earlier notices were issued through e-portal, email and speed post but the notice 20.06.2023 was not received through e-portal or speed post therefore, it could not be replied.
10. We have carefully considered the rival submissions and have also perused the material on record. We find that the learned CIT(E) issued notice to the assessee on 20.06.2023, which could not be replied to by the assessee because of the inactive email address. The learned CIT(E) even in the notice dated 20.06.2023 did not say that the application for recognition u/s.80G(5) of the assessee was barred by limitation. Therefore, in the interest of justice, the assessee must be put to a question that its application is liable to be rejected being not filed in time. Therefore, we find that one more opportunity may be given to the assessee to substantiate its claim that why the application of the assessee for recognition is required to be



entertained. The learned CIT(E) is directed to consider the explanation of the assessee and decide the issue of timelines and then on the merits.

11. In the result, the appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 23/08/2024)

Sd/-

Sd/-

(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 23.08.2024

Aks/-

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai



Sr. No.	Particulars	Date	Initials	Person concerned
1	Draft dictated	21.08.2024		Sr.PS
2	Draft placed before author	22.08.2024		Sr.PS
3	Draft proposed & placed before the second Member			AM
4	Draft discussed/approved by Second Member			AM
5	Approved Draft comes to the Sr.PS/PS			Sr.PS
6	Kept for pronouncement on			Sr.PS
7	File sent to the Bench Clerk			Sr.PS
8	Date on which file goes to the Head Clerk			
9	Date of dispatch of Order			
10	Dictation Sheet is attached herewith			