

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.273/Chny/2024  
निर्धारण वर्ष/Assessment Year: -

M/s. Spandan Foundation, 66, Race Course Road, Coimbatore-641 018.	v.	The CIT (Exemptions), Chennai.
[PAN: ABFTS 5974 F]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri R. Clement Ramesh – Kumar, CIT
सुनवाईकीतारीख/Date of Hearing	:	02.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	21.08.2024

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee Foundation against the order of the Learned Commissioner of Income Tax (Exemptions), (hereinafter in short "the Ld.CIT(E)"), Chennai, dated 28.11.2023 rejecting the online application dated 10.05.2023 in Form 10AB under clause (iii) of first proviso to section 80G(5) of the Income Tax Act, 1961 (hereinafter in short "the Act") seeking approval u/s.80G of the Act.

2. It is noted that there is '4' days delay in filing of this appeal and assessee has filed Condonation petition. Having perused the same, we



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are satisfied that there was reasonable cause for delay. So, we condone the delay and proceed to adjudicate the grounds of appeal.

**3.** The brief facts of the case are that the Ld.CIT(E) while processing application u/s.80G of the Act noted that assessee didn't file self-certified copy of existing order granting registration or approval u/s.12A/12AA or 12AB of the Act as required under rule 17A(2) of the Income Tax Rules, 1962 (hereinafter in short "the Rules"). Therefore, he was pleased to hold that the application dated 10.05.2023 filed by the assessee as not maintainable and rejected the same.

**4.** Aggrieved, the assessee is in appeal before this Tribunal.

**5.** We have heard both the parties and perused the material available on record. We note that the assessee Foundation was incorporated on 16.12.2022; and was granted provisional registration under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act on 31.01.2023 and also was granted provisional registration under clause (iv) of first proviso to sub-section (5) of sec.80G on 28.02.2023. Thereafter, the assessee filed for regular registration u/s.12A of the Act (for five years) on 25.04.2023 in Form 10AB u/s.12A(1)(ac)(iii) of the Act, which was rejected by the Ld.CIT(E) vide *ex parte order* dated 12.10.2023 on the ground that the assessee didn't respond to his notices and didn't file the details/documents called for by him. Aggrieved by the



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action of the Ld.CIT(E) dated 12.10.2023 (against rejection of 12A registration), the assessee preferred an appeal before this Tribunal and the Tribunal vide order dated 21.02.2024 was pleased to restore the said application back to the file of the Ld.CIT(E) and directed him to consider the application filed in Form 10AB dated 25.04.2023 u/s.12A(1)(ac)(iii) of the Act.

**6.** Meanwhile, the assessee had filed an application for regular approval u/s.80G(5) of the Act by filing application on 10.05.2023 in Form 10AB under clause (iii) of first proviso to section 80G(5) of the Act which has been rejected by the Ld.CIT(E) on the ground that the assessee didn't file copy of the existing order granting registration u/s.12A of the Act. We don't countenance the impugned action of the Ld.CIT(E) for the simple reason that the Ld.CIT(E) had issued a show cause notice dated 16.11.2023 and has hurriedly rejected the application of the assessee on 28.11.2023 without giving proper opportunity to the assessee to place its contentions/documents before him. Be that as it may, we take note of the subsequent/contemporary development, wherein, this Tribunal has restored the application of the assessee-Foundation dated 25.04.2023 for regular registration for 'five years' back to the file of the Ld.CIT(E) vide order dated 21.02.2024. In such a scenario, we are of the considered opinion that this application of the assessee dated 10.05.2023 in Form 10AB seeking approval u/s.80G of the Act, needs to be also restored back



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to the file of the Ld.CIT(E) for fresh consideration in the light of our action in respect of the regular registration u/s.12A of the Act noted supra. The Ld.CIT(E) to give proper opportunity to the assessee; and it would be desirable to consider this application of assessee (u/s.80G of the Act) after he has passed order in assessee's case (for regular registration u/s.12A of the Act) and thereafter to pass order in the ibid application dated 10.05.2023 for approval u/s.80G of the Act in accordance to law after hearing the assessee and the assessee needs to file relevant documents/written submissions before the Ld.CIT(E) and the Ld.CIT(E) pass order in accordance to law.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced on the 21<sup>st</sup> day of August, 2024, in Chennai.

**Sd/-**  
(अमिताभ शुक्ला)  
**(AMITABH SHUKLA)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(एबी टी. वर्की)  
**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 21<sup>st</sup> August, 2024.

**TLN, Sr.PS**

आदेश की प्रतिलिपि ँ ग्रेषित/Copy to:

1. ँ पीलर्ी/Appellant
2. प्रत्यर्ी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभर्ीयप्रतिनिधि/DR
5. गार्डफर्ल/GF