

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER**

**I.T.A. No.228/Asr/2024
Assessment Year: 2024-25**

Baba Hazara Singh Kar Sewa Society, Amritsar. [PAN: AACTB9940N] (Appellant)	Vs.	CIT(Exemptions) Chandigarh. (Respondent)
---	------------	---

Appellant by	None
Respondent by	Sh. Sunil Gautam, CIT. DR

Date of Hearing	27.06.2024
Date of Pronouncement	23.08.2024

ORDER

Per: Udayan Das Gupta, JM:

This appeal is filed by the assessee against the order of the Ld. CIT(Exemption), Chandigarh, dated 20/02/2024, rejecting the application for registration of the assessee trust for approval u/s 80G (5) of the Act 1961.

2. It is informed by the registry, that this appeal is time barred by 4 days. The application for condonation of delay has been filed by the president of the assessee

trust. It is also seen that the assessee trust has paid the appeal fees within the time frame by 60 days. But due to non-availability of the president of the trust the filing of the appeal was delayed by 4 days. In the interest of justice, we condone the delay of 4 days and admit the appeal for hearing on merits.

3. The grounds of appeal preferred by the assessee are as follows:

i) Whether the order passed by the CIT Exemptions is legally sustainable in the eyes of law?

ii) Whether in facts and circumstances of the case the order passed by the CIT Exemptions without considering the reply of the petitioner' is illegal, arbitrary and deserves to be set aside by the Hon'ble Tribunal?

iii) Whether the impugned Order is a totally non-speaking and non-reasoned order and therefore legally unsustainable in the eyes of law?

iv) Whether the CIT Exemptions grossly erred in rejecting the application of the appellant by applying the provision which came into being w.e.f. 01.04.2023 whereas the appellant was accorded registration u/s 12AA on 08.07.2020 and the limitation of six months would not apply in view of grant of provisional registration u/s 80G(5).

v) The appellant further craves the indulgence of the Honorable Tribunal to revise/alter/amend the grounds of appeal.”

4. It is seen from the order sheet entry that there has been no representation by the assessee or his counsel on any previous dates of hearing, and on this date also there was no representation and no application for adjournment has also been filed. As such, we take up this case for decision on merits in the presence of the Id. DR.

5. The brief facts of the case are that the assessee is a society trust and applied for registration of the trust u/s 80G(5) of the Act on 26.09.2023 in Form 10AB, alongwith enclosures. The assessee has filed copy of registration in Form 10AC, copy of provisionally approval u/s 80G dated 08.08.2023, copy of Memorandum of Association dated 30.12.2016 alongwith copy of Financial Statements for the year ending 31.03.2020 to 31.03.2022.

6. In course of proceedings before the Id. CIT(E) the applicant has furnished reply dated 10.11.2023 alongwith all requisite annexures, but the said approval was refused by the authorities on the ground that the activity of the assessee has admittedly commenced on 30.12.2016 and since the assessee has commenced this activity and was provisional approved under the first proviso to section 80G(5) (iv), the application for final approval should have been filed within six months of

commencement of activities or should have been filed at least six months prior to the date of expiry of provisional approval whichever is earlier, and as per provision of the Act the Commissioner has no power to condone the delay in filing the application for final approval in Form 10AB and in the instant case the given date has already expired.

6.1 During the course of appeal proceedings there was no appearance on behalf of the assessee, no written submission has also been filed and no paper book is also on record.

6.2 In the instant case, we find from record that the assessee has filed for final approval on 26.09.2023, after grant of provisional approval in Form No. 10AC on 08.08.2023 under clause (iv) of first proviso to sub section (5) of section 80G for the period commencing on 2024-25 to 2026-27.

6.3 This issue is already decided by the Co-ordinate Bench of the Tribunal in number of cases.

(a) Kolkata ITAT in the case of West Bengal Welfare Society, ITA No: 730 and 731/Kol/ 2023, Asst Year 2023-24; Relevant portion is reproduced as below:

“6. We note that the Id. CIT(E) has misconstrued the aforesaid proviso to section 80G (5) of the Act. As per the provision, an

application for final / registration cannot be filed until and unless an assessee/trust has been given provisional approval u/s 80G(5)(iv) of the Act. The assessee was granted provisional approval on 30.11.2022 only, and within a few days i.e. on 03.12.2022, the assessee applied for final registration u/s Clause (iii) of 1st Proviso to section 80G (5) of the Act. Though the assessee might have commenced its activities prior to grant of provisional registration but that does not mean that the assessee in that event will be precluded from applying for final registration even after the grant of provisional registration. The assessee as per statutory provision could not have, directly applied for final registration without grant of provisional registration. The aforesaid proviso, therefore, is to be read as that after the grant of provisional registration, if the assessee has not commenced its activities, he may apply for registration within six months of the commencement of its activities or within the six months prior to the expiry of the period of provisional approval, whichever is earlier. In any case, the assessee is eligible to apply for final registration only after the grant of provisional approval. Therefore, we hold that there is no delay on the part of the assessee in filing application in the prescribed form for grant of final registration under Clause (iii) of 1st Proviso to section 80G (5) of the Act. However, since we have restored the matter to the Id. CIT(E) for decision afresh on merits on the application for final registration u/s 12A of the

Act and since the registration u/s 80G (5) is dependent upon the registration u/s 12A of the Act, therefore, the application of the assessee for registration u/s 80G (5) is also restored to the Id. CIT(E) subject to the observations made above.”

6.4 Similar view has been taken in the following cases:

- (b) Tomorrows Foundation, ITA No 367/Kol/2024 ITAT, Kolkata Bench 160 taxmann.com174,
- (c) Bhamashah Sundarlal Daga Charitable Trust ITA 278/Jodhpur, ITAT Jodhpur Bench 158 taxmann.com 712,
- (d) Go Gram Eco Foundation, ITA No 504/JP/2023, Jaipur Bench, order dated 28/11/2023,
- (d) CIT – 1982 Charitable Trust, ITA No: 827/Chny/2023, ITAT, Chennai Bench, 160 taxmann.com475.

7. In the instant appeal we find that the assessee society has applied for final approval on 26/09/2023, after grant of provisional approval on 08/08/2023, under clause (iv) to first proviso to section 80G(5) of the Act 61, and respectfully following the views of the coordinate Bench, in the matter, we hold that the application filed by the assessee is within limitation period, and the order of the CIT(Exemption), dated 20th February, 2024, is set aside with a direction to decide

the issue of registration u/s 80G of the Act in accordance with law from the date on which the assessee has made an application for permanent registration.

8. In the result, the appeal of the assessee bearing **ITA No. 228/Asr/2024** is allowed for statistical purposes.

Order pronounced in the open court on 23.08.2024

Sd/-

(Dr. M. L. Meena)
Accountant Member
AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

Sd/-

(Udayan Das Gupta)
Judicial Member

True Copy
By Order

