



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE 'B' BENCH, PUNE



BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No. 1025/PUN/2024

Rotary Club of Akurdi Charitable Trust

Office No.-5, 2nd Flr., Prasun Arcade,

Opp. Gokul Hotel,

Pimpri, Pune-411018.

PAN:AABTR3607D

..... अपीलार्थी / *Appellant*

बनाम / *V/s*

Commissioner of Income Tax Officer

Exemption, Pune.

..... प्रत्यर्थी / *Respondent*

द्वारा / *Appearances*

Assessee by : Mr Hari Krishan

Revenue by : Mr Ajaykumar Kesari

सुनवाई की तारीख / Date of conclusive Hearing : 27/08/2024

घोषणा की तारीख / Date of Pronouncement : 27/08/2024

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

The assessee agitates the order of Ld. Commissioner of Income Tax (Exemption), Pune [hereinafter 'CIT(E)'] dt. 13/03/2024 passed u/s 80G(5) of the Income-tax Act, 1961 [hereinafter 'the Act'] whereby Ld. CIT(E) rejected to grant regular 80G recognition/certificate to the assessee for non-compliance.



2. Tersely stated facts borne out of the case records are; the appellant assessee was granted provisional 80G recognition on **06/02/2022**, pursuant to assessee e-filed its application in Form No 10AB on **30/09/2023** thereby seeking grant of regular registration certificate u/s 80G(5)(iii) of the Act under the category of charitable society / institution. The Ld. CIT(E) in-order to verify the objects, genuineness of activities and to ascertain the fulfilment of conditions for granting registration u/s 80G(5) of the Act, was put the appellant to a notice dt. **05/12/2023** thereby called certain key but additional documents. Examining the submission from the records, the Ld. CIT(E) vide further notice dt. **04/03/2024** called upon the assessee to rectify the discrepancies noted by him.

3. In the event of assessee's effective failure to attend the said notice & comply therewith, the Ld. CIT(E) by the impugned order rejected the assessee's application for grant of regular 80G certificate on multiple grounds which inter-alia includes; non-compliance with notice dt. 04/03/2024 requiring rectification, non-production of copy of regular registration u/s 12AB r.w.s. 12A(1)(ac)(iii) or 10(23) of the Act, and application being time barred by limitation.



4. Aggrieved by the said rejection, the appellant assessee came in present appeal on as many as three argumentative grounds, which are inconsonance with rule 8 of ITAT-Rules, 1963 for the reasons reproducing them here for the purpose of adjudication considered unnecessary. However, it shall suffice to state that sole & substantive issue under the present appeals revolves around rejection of application for grant of regular 80G registration.

5. We have heard the rival submission; and subject to the provisions of rule 18 of ITAT Rules, 1963, perused the material placed on record.

6. We have given our thoughtful consideration and perused the material available on record. It remained undisputed that, the appellant was granted a provisional registration u/s 80G(5)(iv) of the Act on 16/02/2022, and therefore was under obligation to file form 10AB for regular/final registration by 15/08/2022 or before the expiry of six months in terms of clause (iii) of first proviso to s/s (5) of section 80G of the Act. The appellant's application dt. 30/09/2023 for grant of regular registration was however admittedly filed after the expiry of former stipulate period. As a result, the application was rejected by the Revenue in limine on threefold grounds viz; (i) the application is



barred by limitation, (ii) the appellant was not entitled to the extended time period in terms of circular 08/2023 dt. 24/05/2023 and (iii) absence of explicit provision/power to condone the delay in filing application for regular/final registration. (iv) non-compliance with the show cause notice including non-production of certificate of registration granted to it u/s 12AB r.w.s. 12(1)(ac)(iii) of the Act etc.

7. There is no dispute over (i), and (iii) reasoning of founded by the Ld. CIT(E), the questions therefore remains over applicability of circular 08/2023 in cases where provisional approval u/c (iv) of first proviso to s/s (5) of section 80G of the Act is granted and non-compliance with respect to show cause notice issued calling upon the assessee to rectify the discrepancies & provide copy of certificate of 12AB issued to it.

8. Without reproducing lock stock and barrel of section 80G, it shall be purposive to state in the context of time limit that, there is no provision in the statute empowering condonation of delay in filing forms like 10A/10AB etc. by the registering authority. However, the CBDT invoking its power u/s 119 of the Act in first place extended the time limit within which the application for regular registration is to be



filed to 30th September, 2022 by circular No. 8/2022 dt. 31/03/2022. Further on the representation from stakeholders/industry that various trust/intuitions etc., were not been able to file applicable forms 10A/10AB etc., within the due date prescribed owing to system glitches, the Board for removing this genuine hardship vide circular 06/2023 dt. 24/05/2023 extended the time limit further upto 30/09/2023 in all cases where the due date for making application has expired prior to such date. The para 5(i) r.w. para 1(c) of the former circular (supra) makes it very clear that the circular besides covering cases of 10(23) and 12A registration also covers the cases falling u/c (i) of the first proviso to s/s (5) of the 80G of the Act. The clause (i) in turn refers to institutions or funds approved u/c (vi) by Ld. PCIT/CIT in relation to donation made after 31/03/1992. That is to say the assessee who is granted provisional registration by an order u/c (vi) of 80G(5) would then be entitled to extended time by virtue of 5(i) r.w. para 1(c) of circular (supra) and not otherwise.

9. In the present case before us, reading from para 7 of impugned order it as an undisputed fact that the appellant assessee was granted a provisional registration u/c (iv) of s/s (5) of section 80G of the Act by



an order u/c (vi) of s/s (5) of section 80G of the Act by the Ld. CIT(E) on 16/02/2022. Therefore, there remains no reason to draw out appellant's case from claiming benefit of extended period for filing application for regular registration. Further the circular (supra) also clarified that the extended period upto 30/09/2023 shall apply even in cases, (i) where the application was rejected by the CIT(E) on or before issuance of this circular dated 24/05/2023 (ii) where due date for making/filing application has expired, on or before 30/09/2023.

10. We find in similar facts & circumstance, the co-ordinate benches allowed benefit of extended time period in; '*Shashvat Paediatric Care Foundation Vs CIT(E)*', [ITA 1217/PUN/2023] '*Swachh Vapi Mission Trust Vs CIT(E)*' [70 CCH 188] '*TB Lulla Charitable Foundation Vs CIT(E)*' [70 CCH 176], and '*Gujarat Hira Bourse & Ors*' [70 CCH 33], '*Bhamashah Sundarlal Daga Charitable Trust*' [226 TTJ 961].

11. In view of the above and maintaining parity with the decisions on the subject matter, rejection of appellant's application on the ground of limitation in our considered view is without appreciating the facts in its entirety and devoid of subsisting circular (supra), hence deserves to be set-aside, ergo ordered accordingly.



12. Insofar as the non-compliance of notice seeking rectification of discrepancies and submission of copy of certificate granted u/s 12AB r.w.s. 12(1)(ac)(iii) of the Act is concerned, we note that such notices were sent to email psl.sunsvg47@gmail.com belonging to a tax consultant who failed to intimate the same to the assessee for due compliance. Thus, the said non-compliance by the assessee was purely accidental & undeliberate, which better can be complied only if the matter is restored back. In view hereof, without commenting on merits, we remand the matter back to the file of Ld. CIT(E) with a direction to treat appellant's application dt. 30/09/2023 as filed within the time limit prescribed u/c (iii) to first proviso to section 80G(5) of the Act r.w.c. 06/2023 (supra) and adjudicate the same on merits in accordance with law after according two effective opportunities.

13. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSES.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday 27th day of August, 2024.

-S/d-

S. S. GODARA

JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 27th day of August, 2024.

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

1. अपीलार्थी / The Appellant.

4. The Pr. CIT(E), Pune

2. प्रत्यर्थी / The Respondent.

5. DR, ITAT, 'B' Bench, Pune

-S/d-

G. D. PADMAHSHALI

ACCOUNTANT MEMBER

3. The Pr. CIT, Pune

6. गार्डफ़ाइल / Guard File.

आदेशानुसार / By Order,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकरअपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.