

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA

Before

**Shri Sanjay Garg, Judicial Member &
Dr. Manish Borad, Accountant Member**

I.T.A. No.17/KOL/2024

Assessment Year:

Bagnan Sankalpa Welfare Society **Appellant**
(PAN: AAIAB7609M)

Vs.

CIT (Exemption), Kolkata **Respondent**

Appearances by:

Shri Pritam Sadhukhan & Shri Biswajit Bera, AR appeared for Appellant.

Shri Rajat Mitra, CIT, DR appeared for Respondent.

Date of concluding the hearing : 14.08.2024

Date of pronouncing the order : 29.08.2024

ORDER

Per Dr. Manish Borad, Accountant Member:

This appeal by the assessee is against order of Ld. CIT(E), Kolkata vide order dated 03.11.2023 in respect of cancellation order of application for registration under clause (iii) of second proviso to sub-section (5) of section 80G of the Income-tax Act, 1961 (hereinafter referred to as the “Act”).

2. Grounds of appeal raised by the assessee are reproduced as under:

“1. The application for approval u/s. 80G(5)(iii) has been rejected without giving proper opportunity of being heard, which may be granted or the procuring should be set aside for giving us the proper opportunity of being heard before the Hon’ble CIT(Exmp). 2. The appellant craves

leave to add, alter, amend and/ or modify any of the contentions raised and submissions made at any time in future.

2. Fact The appellant is a Society, established to help the needy members in case of sickness, accidents and death of such members and the needy students of all communities for the prosecution of studies and help the people in marriage, funeral and cremation of the dead etc. The trust was provisionally registered from AY 2022-23 u/s. 12A(i)(ac)(vi) and provisionally approved from Assessment Year 05-04-2022 u/s. 80G(5)(iii) both in form 10AB dated 20.05.2023. On 09/10/2023, CIT (Exmp.) issued a notice for hearing against form 10AB filed for registration u/s. 12A(1)(ac)(iii), only mentioning the application number.

3. Further, another notice for hearing issued by CIT(Exmp) against form 10AB filed for approval u/s. 80G(5)(iii), only mentioning the application number. Both the mails have been received in same mail link and the appellant could not understand that those were different notices. In general parlance, the appellant think that those notices are same and they only comply the notices for registration u/s 12A(l)(ac)(iii) and finally the registration has been granted u/s 12AB(1)(b) on 20.11.2023. Further, when the rejection order has been received on 03/11/2023 mentioning the non-compliance from the end on appellant. Finally no further option is available to the appellant for restoring the application before the income tax department and it prefers appeal before the Hon'ble ITAT."

3. At the outset, Ld. Counsel submitted that assessee did not receive any e-mail/communication for the date of hearing fixed by Ld. CIT(E) because of which assessee could not produce various details and documents necessary for satisfying the Ld. CIT(E) for granting the approval u/s. 80G(5) of the Act applied by the assessee in Form 10AB and, therefore, requesting for granting one more opportunity to go before Ld. CIT(E).

4. On the other hand, Ld. DR did not oppose to this request of Ld. Counsel for the assessee.

5. We have heard the rival submission and perused the material placed before us. We observe that the assessee is a charitable society established to help the needy members in case of sickness, accidents and death of such members and the needy students of all communities. Assessee has been granted registration u/s. 12AB(i)(b) of the Act on 20.11.2023. However, an application filed in Form No. 10AB for approval under clause (iii) of second proviso to section 80G(5) of the Act was rejected in limine for non-appearance of the assessee before the Ld. CIT(E) which was allegedly on account of non-receipt of communication from Ld. CIT(E).

6. We observe that the assessee was prevented from appearing before the Ld. CIT(E) as it did not receive any e-mail/communication for the dates of hearing and also note that the assessee has already been granted registration u/s. 12AB(i)(b) of the Act which clearly indicates that assessee is regularly appearing before the revenue authorities and is not a habitual offender. Therefore, in the interest of justice and being fair to both the parties, the matter raised in the instant appeal is restored to the file of the Ld. CIT(E) for deciding the application filed by the assessee in Form 10AB for registration under clause (iii) of second proviso to sec. 80G(5) of the Act afresh. Needless to mention that proper opportunity of hearing be granted to the assessee. Assessee is also directed to file necessary details as and when called for and should not take adjournment without reasonable cause. Grounds of appeal raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 29th August, 2024.

Sd/-

(Sanjay Garg)
Judicial Member

Sd/-

(Dr. Manish Borad)
Accountant Member

Dated: 29th August, 2024

J.D. Sr. PS.

Copy of the order forwarded to:

1. **Appellant – Bagnan Sankalpa Welfare Society, Bagnan-II, Nuntia, Mugkalyan S.O. Nuntia, Howrah-711312.**
2. CIT(E), Kolkata
3. CIT-
4. Departmental Representative
5. Guard File.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata