

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

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

**ITA No.2526 & 2523/Mum/2024  
Assessment Year: 2023-24**

Gayatri Gaushala Parivar Trust, Shop No. 7, Uttan Naka, Pali Road, Near Thane Madhyavarti, Thane-401106. PAN: AAETG 1738 K (Appellant)	Vs.	CIT, Exemption Ward, Thane (Respondent)
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**Present for:**

Assessee by : Ms. Anushree S. Gupta.  
Revenue by : Dr. Kishor Dhule, CIT, DR

Date of Hearing : 01.08.2024  
Date of Pronouncement : 28.08.2024

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

The appeal filed by the assessee vide ITA No. 2526/M/2024 is directed against the order of ld. CIT(E) u/s 12AB(1)(b)(ii) of the Act and other appeal filed by the assessee vide ITA No. 2523/M/2024 is directed against the order of ld. CIT(E), Pune passed u/s 80(5) of the Act. Both these appeals are based on identical facts therefore these appeals are adjudicated together by this common order.

**ITA No. 2526/Mum/2024**

2. The assessee has raised the following grounds of appeal:

*"1. On the facts and circumstances of the case and in the law, the order passed by the Learned Commissioner of Income-Tax, Exemptions, [Ld. CIT(Exemptions)], Pune under section 12AB(1)(b) in Form No. 10AD dated 27.03.2024 DIN: /TBA/EXMIF/EXM45/2023-24/1063464444(1)] be restored to the Ld. CIT(Exemptions) since it is violative of principles of natural justice on account of the following:*

*(i) In the erstwhile regime if the application for registration under section 12A of the Act was rejected, the trust could re-apply for registration and the hardship to file an appeal and appear before the Hon'ble Tribunal was avoided. However, in the new regime the e-filing portal of the income-tax department does not provide any functionality to re-apply for regular registration under section 12A of the Act against the rejected application, hence, the appellant is before Your Honours.*

*(ii) Recently CBDT vide Circular No. 7 of 2024 dated 25.04.2024. extended the due date for filing Form No. 10A and 10AB, till 30.06.2024. However, the Circular at page no. 2, para no. 4.1 covers only those cases wherein the application is rejected solely on account of the fact that the application was furnished after the due date or that the application has been furnished under the wrong section code. Therefore, the present case is not covered by the CBDT Circular.*

*(iii) The appellant prays that it will cause genuine hardship to the appellant if the registration under section 12A is not granted and therefore on account of principles of natural justice, Your Honours be pleased to grant us an opportunity of being heard.*

*2. On the facts and circumstances of the case and in the law, the appellant humbly requests Your Honours to grant stay on the order passed by the Ld. CIT(Exemptions), Pune till the time the appeal is decided by Your Honours and consider the appellant as deemed registered under section 12A of the Act.*

*3. The Appellant craves leave to add, to amend, to alter, to withdraw, to modify and / or to substitute any or all the foregoing grounds of appeal and to submit such statements, documents and papers as may be considered. Necessary either at or before the appeal hearing.*

3. The assessee has filed an application in Form No. 10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 on 28.09.2023. The ld. CIT(E) has issued notice through ITBA portal on 21.11.2023 requesting the assessee to upload certain information/clarification as elaborated at page no. 3 to 7 of the order passed by the ld. CIT(E). The ld. CIT(E) communicated the discrepancy noticed in the submission to the assessee on 12.01.2024. In response to the said notice on 19.01.2024, the assessee requested for an adjournment of 15 days. The ld. CIT(A) has rejected the application filed

by the assessee u/s 12AB r.w.s. 12A(1)(ac)(vi) of the I.T. Act, 1961 for not making compliance from the side of the assessee.

4. Heard both the sides and perused the material on record. The assessee could not make compliance on the various discrepancies communicated by the ld. CIT(E). In this regard, the ld. Counsel brought to our notice that assessee has categorically requested the ld. CIT(E) to provide adjournment of 15 days to enable the assessee to gather the various information in respect of the discrepancies in the submission of the assessee noticed by the ld. CIT(E). However, without giving 2<sup>nd</sup> opportunity the application of the assessee was dismissed without considering the same on merit. Looking to these facts and circumstances we consider it appropriate to restore this case to the file of the ld. CIT(E) for deciding the matter on merit after providing adequate opportunities to the assessee to make necessary submission as discussed. The assessee is also directed to make due compliance before the ld. CIT(E) without any failure. Accordingly, the appeal of the assessee is allowed for statistical purposes.

ITA No. 2523/Mum/2024

*“1. On the facts and circumstances of the case and in the law, the order passed by the Learned Commissioner of Income-Tax, Exemptions, [Ld. CIT(Exemptions)], Pune under clause (ii) of second proviso to section 80G(5) in Form No. 10AD dated 27.03.2024 (DIN: ITBA/EXM/F/EXM45/2023-24/1063464987(1)) be restored to the Ld. CIT(Exemptions) since it is violative of principles of natural justice on account of the following:*

*(i) In the erstwhile regime if the application for approval under section 80G of the Act was rejected, the trust could re-apply for approval and the hardship to file an appeal and appear before the Hon'ble Tribunal was avoided. However, in the new regime the e-filing portal of the income-tax department does not provide any functionality to re-apply for regular approval under section 80G of the Act against the rejected application, hence, the appellant is before Your Honours.*

*(ii) No show-cause notice was issued for rejection of the application on account of appellant not being registered either under section 12AB r.w.s. 12A(1)(ac)(i) / 12A(1)(ac)(ii) or approved under section 10(23C) r.w. clause (i) / (iii) of first proviso to section 80G(5) of the Act.*

*(iii) The appellant prays that it will cause genuine hardship to the appellant as well as the donor if approval under section 80G is not granted and therefore on account of principles of natural justice Your Honours be pleased to grant us an opportunity of being heard.*

*2. On the facts and circumstances of the case and in the law, the appellant humbly requests Your Honours to grant stay on the order passed by the Ld. CIT(Exemptions), Pune till the time the appeal is decided by Your Honours and consider the appellant as deemed approved under section 80G of the Act.*

*3. The Appellant craves leave to add, to amend, to alter, to withdraw, to modify and / or to substitute any or all the foregoing grounds of appeal and to submit such statements, documents and papers as may be considered necessary either at or before the appeal hearing.”*

5. Fact in brief is that assessee filed application in Form No. 10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961 on 30.09.2023. The ld. CIT(E) has called various details from the assessee as referred at page no. 3 to 9 of the order of ld. CIT(E). The ld. CIT(E) has noticed various discrepancies in the detail and document submitted by the assessee which was communicated to the assessee for further compliance. The ld. CIT(E) has rejected the application of the assessee filed in Form No. 10AB under clause (iii) of first proviso to section 80G(5) of the Act because of not making full compliance and further on the ground that assessee has not filed the application within the time limit allowed under clause (iii) of first proviso to section 80G(5) of the Act.

6. Heard both the sides and perused the material on record. The ld. Counsel submitted that assessee has sought adjournment for 15 days, however, the application filed was dismissed without providing further opportunities similar to the application filed u/s 12AB as discussed

while adjudicating the appeal of the assessee vide ITA No. 2526/Mum/2024. The Id. Counsel also submitted that the time limit for filing application for the purpose u/s 80G(5) of the Act has been retrospectively extended vide Finance Bill 2024. In the light of the above facts and findings and for the reasons as discussed while adjudicating the appeal of the assessee vide ITA No. 2526/Mum/2024 this appeal of the assessee is also restored to the file of Id. CIT(E) for deciding afresh on merit after providing opportunity to the assessee to make submission on the various discrepancies noticed by the Id. CIT(E). Accordingly, this appeal of the assessee is also allowed for statistical purposes.

7. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 28.08.2024.

**Sd/-**  
**(MS. KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 28.08.2024  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai