

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

**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.1824/MUM/2024
(Assessment Year: 2024-25)**

KLM Foundation

Unit No. 1004, 10th Floor, Hubtown
Viva, Western Express Highway,
Jogeshwari East, Mumbai-400060.
[PAN: AAHCK5445K]

..... **Appellant**

Vs

**Commissioner of Income Tax
(Exemptions), Mumbai**

601, MTNL TE building, Peddar Road,
Cumballa Hill, Mumbai-400024.

..... **Respondent**

Appearance

For the Appellant/Assessee : None
For the Respondent/Department : Shri Biswanath Das

Date

Conclusion of hearing : 20.08.2024
Pronouncement of order : 30.08.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. This appeal is filed by the Assessee against the order, dated 14/03/2024, passed by the Learned Commission of Income Tax (Exemption), Pune [hereinafter referred to as 'the **CIT**'] whereby the application filed by the Assessee for approval/recognition under Section 80G(5) of the Income Tax Act, 1961 (for short 'the **Act**') was rejected as being not maintainable.
2. When the appeal was taken up for hearing none was present on behalf of the Appellant. The primary grievance of the Assessee, as emanating from the grounds of appeal, is that the Assessee

was not granted an opportunity of being heard in the matter.

3. We have heard the Learned Departmental Representative and perused the material on record.
4. We note that the Assessee has claimed that the application was rejected without opportunity of being heard. On perusal of the order impugned, we find that opportunity of being heard was granted to the Assessee only on 21/12/2023 and thereafter, the application has been rejected on the ground that the same was not filed within the time prescribed. However, the order impugned does not contain any discussion regarding the submission made by the Assessee. In our view, the Assessee has not been confronted with the aspect of maintainability of the application and therefore, effective opportunity of being heard has not been granted to the Assessee. In the interest of justice requires the Assessee must be put to notice that the application has been filed after expiry of the prescribed time. Accordingly, we deem it appropriate to grant one more opportunity to the Assessee to show that the application is maintainable and that the same should be considered/allowed on merits. Accordingly, we set aside the order, dated 14/03/2024, passed by the Ld. PCIT and restore the application before the Ld. PCIT with the directions to adjudicate the same as per law after granting the Assessee a reasonable opportunity of being heard. The Assessee is directed to file submission, details and documents in support of its claim before the Ld. PCIT on getting notice of hearing. It is clarified that in case the Assessee fails to appear before the Ld. PCIT or fails to furnish relevant explanation/details/documents relating to its activities, the Ld. PCIT would be at liberty to adjudicate the application on the basis of material on record. Accordingly, Ground No. 1 & 2 raised by the Appellant are allowed for statistical purposes.

5. In result, the present appeal of the Assessee is allowed for statistical purposes.

Order pronounced on 30.08.2024.

Sd/-
(Prashant Maharishi)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 30.08.2024
Patil, Sr.P.S.

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai