



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 अपील सं. / ITA No. 1036/PUN/2023

Sarathi Youth Foundation
85, Mother India Nagar,
70 feet Road, Solapur North,
Solapur-413003.
PAN: AALTS4266M

..... अपीलार्थी / *Appellant*

बनाम / *V/s*

Commissioner of Income Tax,
Exemption, Pune

..... प्रत्यर्थी / *Respondent*

द्वारा / *Appearances*

Assessee by : Mr Sarang Gudhate ['Ld. AR']

Revenue by : Mr Ajay Kumar Kesari ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 28/08/2024

घोषणा की तारीख / Date of Pronouncement : 28/08/2024

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By the present appeal the assessee challenged DIN & order No. ITBA/EXM/F/EXM45/2023-24/1063124996(1) dt. 21/03/2024 of the Commissioner of Income Tax (Exemption), Pune [hereinafter 'CIT(E)'] passed rejecting to grant regular registration u/s 80G(5) of the Income/tax Act, 1961 [hereinafter 'the Act'].

2. The long and short of the case is that; the appellant's application for provisional registration u/s 80G(5)(iv) of the Act was accepted by the respondent Revenue and certificate to that effect vide order dt. 09/07/2021 was issued. In compliance of terms of condition of provisional registration and applicable provisions of the Act, the assessee vide its application From No. 10AB CIT EXEMPTION, PUNE/2023-24/12AA/13479 dt. 30/09/2023 applied for regular/final 80G approval/registration, this application however by the impugned order is rejected by the Ld. CIT(E) *in limine* on the ground that the application is barred by limitation.



3. In view of the Ld. CIT(E), since the appellant had already commenced its activities on dt. 26/02/2010 i.e. much before the issue of provisional registration hence was under obligation to file an application seeking regular 80G registration within a period of six months therefrom provisional registration granted to it i.e. 09/07/2021. It is further the case of the Revenue that, delayed application filed was even beyond the extended time allowed by CBDT Circular 08/2022 dt. 30/09/2022. Thus said application of the appellant was barred by limitation and in absence of statutory provision empowering condonation of delay the application deserved rejection in the light of decision of Hon'ble Madras High Court in '*All Angels Educational Society Vs CCIT*' [WP/4969/2014] and the judgments of Hon'ble Supreme Court in the case of State of '*UP Vs Harish Chandra*' [AIR 1996 SC 2173]; further '*Union of India Vs Kirloskar Pneumatic Co. Ltd.* [1996 taxmann.com 575 (SC)]

4. Aggrieved assessee brought up the present appeal before Tribunal on three argumentative legal grounds which we found are inconsonance with rule 8 of ITAT Rules, 1963. These however without touching merits calls for adjudication on the grounds of limitation and violation of principle of natural justice.

5. The reasons spelt out in application for adjournment by the Ld. AR are found vague and unsatisfactory hence rejected. Heard rival contentions of both the parties; and subject to the provisions of rule 18 of ITAT/Rules, 1963 perused material placed on record and case laws relied. We have given our thoughtful consideration and perused the material available on record. It remained undisputed that, the appellant commenced its activities before the date it was granted a provisional registration u/s 80G(5)(iv) of the Act on 09/07/2021, and therefore was under obligation to file form 10AB for regular/final registration 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) in absence of explicit provision/power to condone the delay in filing application for regular/final registration. There is no dispute over (i) and (iii) reasoning of founded by the Ld. CIT(E), the solitarily question 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.

6. Without reproducing lock stock and barrel of section 80G of the Act, 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.

7. In the present case before us, reading from para 4 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). 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 dt 24/05/2023 (ii) where due date for making/filing application has expired, on or before 30/09/2023. In addition to above, in reply to a specific query, the appellant spelt out the reasons beyond delayed filing of application, which in our considered view also formed sufficient & reasonable ground to condone the delay. We find in similar facts & circumstance, the co-ordinate benches allowed benefit of extended time period in; '*Rotary Club of Akurdi Charitable Trust*' [ITA 1025/PUN/2024] '*Shashvat Paediatric Care Foundation*', [ITA 1217/PUN/2023] '*Birmani Charitable Foundation*' [162 Taxmann.com 154] '*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].

8. Maintaining parity with former decisions, we hold the application of the appellant was filed well within the extended time limit and in consequence we set-aside the impugned order of rejection for remand 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.

9. In result, the appeal is partly allowed for statistical purpose in above terms.

U/r 34 of ITAT Rules, the order pronounced in the open court on this Wednesday 28th day of August, 2024.

-S/d-

S. S. GODARA

JUDICIAL MEMBER

-S/d-

G. D. PADMAHALI

ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 28th day of August, 2024.

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT Concerned.

4. The CIT(E), Pune (MH/India)

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

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.