

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH KOLKATA

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

ITA No. 587/KOL/2024

Manav Jyot Charitable Trust, 22 Bharat Sabha Path, Formerly Kenderdine Lane, Kolkata - 700012 (PAN: AAHTM9474F)	Vs	CIT (Exemption), Kolkata, Income Tax Office, 10B, Middleton Row, Kolkata - 700071
(Appellant)		(Respondent)

Present for:

Appellant by : Miraj D. Shah, AR
Respondent by : A. Kundu, CIT DR

Date of Hearing : 11.09.2024
Date of Pronouncement : 13.09.2024

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Exemption), Kolkata (hereinafter referred to as “the Ld. CIT(E)”) against the order for registration under section 80G(iii) of the Income Tax Act, 1961 (for short ‘the ‘Act’) dated 15.02.2024.

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

- “1 For that in the facts and circumstances of the case the Ld. CIT Exemption be directed to allow the registration u/s 80G of the Income Tax Act, 1961
2. For that on the facts and circumstances prevailing in the case and as per the provisions of the law, the Ld. CIT(Exemptions) erred in law as well as on facts in rejecting the application made by the assessee for approval u/s 80G(5) of the Income Tax Act, 1961.

3. *For that on the facts and circumstances prevailing in the case, the Ld. CIT(Exemptions) has erred in law as well as on facts in rejecting the application made by the assessee for approval u/s 80G(5) of the Income Tax Act, 1961 without providing sufficient opportunity of being heard.*
4. *For that on the facts and circumstances prevailing in the case the Ld. CIT(Exemptions) be directed to consider the application u/s 80G(5)(iii) of the Income Tax Act, 1961 as application u/s 80G(5)(i) of the Income Tax Act, 1961.*
5. *The appellant craves leave to produce additional evidences in terms of Rule 29 of the Income Tax (Appellate Tribunal) Rules 1963.*
6. *The appellant craves leave to press new, additional grounds of appeal or modify, withdraw any of the above grounds at the time of hearing of the appeal.”*

3. The brief facts of the case are that the assessee was granted provisional approval u/s 80G(iv) of the Act in Form No. 10AC vide order dated 23.06.2022 for a period from 23.06.2022 to AY 2025-26. Subsequently, an application for approval of the trust u/s 80G(5)(iii) of the Act was filed electronically and as per data available in ITBA, the same was filed on 31.08.2023 by the assessee in Form No. 10AB under Rule 17A of the Income Tax Rules, 1962. The Ld. CIT(E) issued a show cause notice to the assessee with a request to furnish detailed note on the activities carried out by the assessee as well as certain documents. The applicant/assessee furnished certain details/documents which were examined and it was found from the audit report that the assessee had already commenced its activities from 30.07.2022. The extended due date for filing the application in Form No. 10AB was 30.09.2022 as per the CBDT Circular No. 8/2022 dated 31.03.2022. However, the assessee did not file the Form No. 10AB within stipulated time limit. Therefore, another show cause notice was issued but no reply was filed. The Ld. CIT(E), on perusal of the income and expenditure accounts for the year ended 31.03.2023 noticed that the assessee has incurred expenses on account of medical relief of Rs. 26,79,116/- and relief of Poverty of Rs. 7,02,713/- which established the fact that the activities of the assessee had already

commenced in the F.Y. 2022-23 from 30.07.2022 and since the application was not filed in time, which was required to be filed at least 6 months prior to the expiry of period of provisional approval or within 6 months of commencement of the activities, whichever is earlier, therefore, the same was treated as non-maintainable and the provisional certificate issued to the assessee was also cancelled in view of the decision of the Hon'ble Kolkata Tribunal in the case of Bishnupur Public Education Institute reported in 139 taxman.com 121, wherein it has been held that the delay cannot be condoned.

4. Before us, the Ld. AR relied upon the decision in the case of Amar Baani Vs. CIT (Exemption), Kolkata, ITA No. 665/Kol/2024, dated 24.07.2024, and also the decision of the M/s Gedee Medical Foundation Vs. Commissioner of Income Tax (Exemption), ITA No. 1378/Chny/2024, dated 24.07.2024. In the case of M/s Gedee Medical Foundation Vs. Commissioner of Income Tax (Exemption), the coordinate Bench of the Tribunal has held as under:

“7. Before us, during the course of hearing, ld. Counsel for both the parties appraised the fact that the assessee in the light of above Circular No. 7/2024 dated 25.04.2024 has filed a fresh application in Form 10AB vide acknowledgement No. 474389330220624 dated 22.06.2024 and is pending adjudication before CIT(E).

8. Therefore, in the facts and circumstances mentioned above, the present appeal is rendered academic hence infructuous. However, we direct the ld. CIT(E) to treat the fresh application filed on 22.06.2024 as originally filed and expedite the fresh application.

9. The appeal stand dismissed as infructuous in terms of our above order.”

5. It was also informed to us that the assessee had filed a fresh application in view of the CBDT Circular No. 7/2024 dated 25.04.2024. Hence, respectfully following the order of the co-ordinate Bench, the appeal is rendered academic and infructuous and is liable to be dismissed and is hereby dismissed. However, the Ld. CIT(E) shall treat the fresh application filed on 22.06.2024, which has been filed in view of the Circular No. 7/2024 dated 25.04.2024 as filed in time and expedite the

decision on the same. In view mere direction, the appeal is dismissed as infructuous.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 13th September, 2024.

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Rakesh Mishra)
Accountant Member

Dated: 13th September, 2024

AK, P.S.

Copy to:

1. The Appellant:
2. The Respondent.
3. CIT(A)
4. The CIT,
5. DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata