

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE SHRI. BR BASKARAN, ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 1953/MUM/2024 (A.Y: 2025-26)**

Shree Bhagwan Parshuram Trust
3rd Floor, Hanumanvas, Shastri Hall,
Jaoji Dadaji Marg, Nana Chowk,
Grant Road, Mumbai – 400007.
PAN: AAPTS2599R

(Appellant)

Vs. CIT (Exemption), Mumbai
Room No. 601, 6th Floor,
Cumballa Hill, MTNL, TE
Building, Pedder Road, Dr.
Gopalrao Deshmukh Marg,
Mumbai – 400026.

(Respondent)

Assessee Represented by : None
Department Represented by : Shri. Dr. Mahesh Akhade,
CIT DR.
Date of conclusion of Hearing : 01.07.2024
Date of Pronouncement : 24.09.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 14.03.2024 of Learned Commissioner of Income Tax (Exemptions), Mumbai [hereinafter referred to as the “*CIT(Exemptions)*”], passed under



section 80G of the Income Tax Act, 1961 [hereinafter referred to as “*the Act*”] for the A.Y. 2025-26, wherein the application for grant of approval u/s. 80G of the Act was dismissed on the ground that after provisional approval, the appellant has failed to apply as per prescribed procedure within a period of 6 months from the receipt of the provisional registration.

2. Aggrieved by the impugned order, the assessee is in appeal before us and has raised the following grounds of appeal in this appeal.

1. *“The appellant submit that on the facts and in the circumstances of the case and in law, the Honorable Commissioner of Income Tax Exemption, Mumbai erred in rejecting the application for exemption u/s 80G(5) made by the appellant trust without granting personal hearing before rejecting the application.*
2. *On the facts and in the circumstances of the case and in law the honorable Commissioner of Income Tax Exemption, Mumbai erred in summarily rejecting the application holding that the assessee is not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB within the prescribed time limit and ignoring the facts and circumstances of the case therein infact the activities of the trust are genuine and it is satisfying all the conditions of registration u/s 80G(5) of the Income Tax Act, 1961.”*

3. At the time of hearing, none appeared on behalf of assessee. It is evident that the impugned order is ex parte as no opportunity of hearing has been given to the appellant for explaining the reasons for grant of approval. It is therefore considered expedite that the matter be restored back to the



Ld. CIT (Exemptions) for considering the request of the appellant/assessee who otherwise fulfill all the conditions for granting approval by the Ld. CIT (Exemptions) u/s. 80G of the Act.

4. We have heard the Ld. DR on behalf of the revenue who has supported and relied upon the judgment of the Ld. CIT (Exemptions). We have considered the submissions and examined the impugned order which is extracted as under:

1. *M/s Shree Bhagwan Parshuram Trust [hereafter 'the applicant' or 'the assessee'] filed application in Form 10AB under section 80G of the Act. The application has been granted Provisional Approval under section 80G(5) of the Act in Form 10AC by CPC Bengaluru.*
2. *Under the relevant clause (iii) of the First Proviso to sub-section(5) of Section 80G of the Act, an applicant has to make an application in the prescribed format and manner in the following scenario:*

“where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier.”
3. *on verification of the facts and circumstances of the case, it is found that the assessee has started activity before receipt of provisional registration. In view of this the assessee has to filed Form 10AB, six month from the receipt of provisional registration i.e. April 2022, while the assessee has filed Form 10AB of 80G on 26.09.2023. As such, the assessee is not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB. In view of the same, this application for grant of approval is not maintainable and the same is rejected.*



4. *For statistical purposes, this application for approval under section 80G is nonmaintainable and stands rejected.”*
5. It is thus evident from the impugned order extracted above that no opportunity of hearing has been given by the Ld. CIT (Exemptions) before dismissing the application for grant of approval as not maintainable. It is settled law that no one should be condemned unheard.
6. In these facts and circumstances, we are of the considered opinion that the impugned order is therefore not legally sustainable in the eyes of law and is accordingly set aside. The matter is restored to the file of the Ld. CIT (Exemptions) to decide afresh after giving effective opportunity of hearing to the appellant.
7. All the grounds of appeal are accordingly decided in favour of the appellant.
8. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 24.09.2024

**(BR BASKARAN)
(ACCOUNTANT MEMBER)**

**(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)**



Mumbai / Dated 24.09.2024
Karishma J. Pawar, (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai