

IN THE INCOME TAX APPELLATE TRIBUNAL

"G" BENCH, MUMBAI

BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 4267/MUM/2024

Shree Shani Mahatma Poojasamithi

2-A, Irany Colony Opp. Goregaon Flyover,
Mumbai – 400064,
Maharashtra
PAN: AAATS2757G

..... Appellant

v/s

CIT (Exemptions),

Mumbai

..... Respondent

Assessee by : Shri Jagdish Shetty, CA

Revenue by : Dr. Kishor Dhule, CIT-DR

Date of Hearing – 07/10/2024

Date of Order - 11/10/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

1. The present appeal has been filed by the assessee challenging the impugned order dated 18/06/2024 passed in Form 10AD by the learned Commissioner of Income Tax (Exemptions), Mumbai, [*learned CIT(E)*] denying the approval under section 80G(5) of the Income Tax Act, 1961 (*the Act*).

2. In this appeal, the assessee has raised the following grounds: –

"1. On the basis of facts and circumstances of the case, the Learned Commissioner of Income Tax (Exemptions), Mumbai ["CIT(Exemptions)" erred in passing rejection order in form 10AD under Clause (vi) of Subsection (5) of Section 80G of The Income Tax Act without appreciating the details and documents submitted by your appellant within prescribed due dates.

2. On the basis of facts and circumstances of the case, Learned CIT (Exemptions) erred in rejecting registration application without giving your appellant an opportunity of being heard before passing the order in Form 10AD which is in violation of the Principle of Natural Justice.

3. On the basis of facts and the circumstances of the case, the Learned CIT (Exemptions) erred in ignoring the facts that your assessee has filled application for obtaining 80G registration on regular basis and while filling the application the accountant has inadvertently selected wrong subsection but submitted all the documents and details and Ld. CIT (Exemption) without taking into consideration all the details and documents has rejected the 80G application solely on minor clerical error of selecting wrong subsection without giving any opportunity of being heard or personal hearing thereto for substantiating its contentions or time to make corrections."

3. We have considered the submissions of both sides and perused the material available on record. The assessee is a registered Public Charitable Trust holding Trust Registration No.E-3308(BOM) under The Maharashtra Public Trust Act, 1950. The assessee was incorporated with the main objective of serving the community at large through the conduct of charitable activities by providing support and benefit to the weaker section of the society by spreading education and learning, medical relief, and imparting vocational training programs and other skills. The assessee was granted Provisional Registration under clause (iv) of the first proviso to section 80G(5) of the Act on 24/03/2022 for the period from 24/03/2022 to the assessment year 2024-25. As per the assessee, it filed an application in Form 10AB on 19/01/2024 for Final Registration by mistake under clause (ii) of sub-section(5) of section 80G instead of filing the same under clause (iii) of sub-section(5) of section 80G of the Act. During the hearing, the learned

AR submitted that this was an unintentional clerical error made by the accounting while filing the aforesaid application in Form 10AB.

4. In the present case, it is undisputed that the application filed by the assessee in Form 10AB was within the due date. As per the assessee, no opportunity of being heard was granted to it by the learned CIT(E) before rejecting its application in Form 10AB. Therefore, in view of the facts and circumstances noted above, we deem it appropriate to direct the learned CIT(E) to grant an opportunity to the assessee to file the revised application under the correct provision of the law. Further, the learned CIT(E) is directed to consider the same on merits after affording the reasonable and adequate opportunity of hearing to the assessee. With the above directions, the impugned order dated 18/06/2024 is set aside and grounds raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 11/10/2024

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

MUMBAI, DATED: 11/10/2024
Prabhat