

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

ITA No.253/Ind/2024

Sushila Devi Umravsingh Patel Seva Sansthan, 13 Old Housing Board Colony, Barwani S.O, Barwani	Vs.	CIT Exemption, Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: ABUAS7259P		
Assessee by	Shri Ashish Goyal, AR	
Revenue by	Shri Ram Kumar, CIT-DR	
Date of Hearing	07.10.2024	
Date of Pronouncement	09.10.2024	

ORDER

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 18.03.2024 of the Commissioner of Income Tax, Exemptions, Bhopal whereby the application of the assessee for registration u/s 12AB of the Act was rejected.

2. Assessee has raised following grounds of appeal:

"1. The order appealed against is bad-in-law, void- ab-initio, barred by limitation, against the principles of natural justice and fair play, illegal and therefore liable to be quashed.

2. Without prejudice, the Ld. CIT Exemption, Bhopal erred in rejecting the application filed for registration u/s 12AB without considering the documents on records and facts and circumstances of the case.

3. Without prejudice, the registration u/s 12AB ought to be granted in the facts and circumstances of the case.

4. The appellant carves leave to add, amend or modify any of the grounds of appeal."

3. Before the Tribunal the Ld. AR of the assessee has submitted that the assessee society was granted provisional registration u/s 12AB of the Act on 21.11.2022. Thereafter the CIT Exemption has rejected the regular registration u/s 12AB of the Act on the ground that the assessee was also granted provisional approval u/s 80G(5) of the Act on 01.12.2022 but the assessee did not apply for regular approval u/s 80G(5) of the Act within the period of 6 months from the start of the activities as stipulated in Clause (iii) of first proviso to Section 80G(5) of the Act. The Ld. AR has further submitted that the CIT Exemption has observed that the assessee society started activities in the financial year 2022-23 and received CSR donation of Rs.25 lakh without valid registration certificate u/s 80G(5) of the

Act. Therefore, the application for regular registration u/s 12AB of the Act was rejected by the CIT Exemption only on the ground that the assessee did not apply for regular approval u/s 80G(5) of the Act within the stipulated period of 6 months. He has pointed out that the period of 6 months was extended by CBDT vide Circular No.7/2024 dated 25.04.2024 till 30th June, 2024 and accordingly assessee applied for regular approval u/s 80G(5) of the Act vide application dated 30.06.2024. Thus, the Ld. AR has submitted that when the assessee has applied for regular approval u/s 80G(5) of the Act within the period as extended by the CBDT then the CSR donation received by the assessee was during the valid registration (provisional) u/s 80G(5) of the Act. Hence, he has pleaded that the impugned order of CIT Exemption is not sustainable and liable to be set aside.

4. On the other hand Ld. Departmental Representative has submitted that the time limit for filing the application u/s 80G(5) of the Act was extended by the CBDT vide Circular No.7/2024 dated 25.04.202 which was subsequent to the impugned order passed by the CIT Exemption and therefore, the said circular was not

available with CIT Exemption at the time of passing the impugned order.

5. We have considered the rival submissions as well as relevant material on record. The CIT Exemption issued show cause notice to assessee and relevant extract are reproduced in para 2 of the impugned order as under:

"2. Subsequently, notice was issued to the assessee on 01.03.2024 to furnish the following explanations:-

"On perusal of Form 10AC provisional registration u/s 80G(5) submitted by the assessee it is observed that it was granted to the assessee on 01.12.2022 and the assessee was required to apply in Form 10AB under Clause (iii) of First Proviso to Section 80G(5) of the Act, within six months from the start of activities. In the present case, the activities of the assessee was started in FY 2022-23 but the assessee has not applied for regular registration U/s 80G(5) of the Act and provisional registration u/s 80G(5) dated 01.12.2022 is already expired and valid. The society has started the activities in the F.Y 2022-2023 and received the CSR donation Rs. 25,00,000/- and doing CSR activities without valid registration certificate U/s 80G(5) of the Act. Valid Registration U/s 12AB and 80G(5) is compulsory for doing CSR activities as per CSR Rules MCA Notification dated 22.01.2021. Please explain the same."

5.1 Thus, the main reason for rejecting the application was recorded by the CIT Exemption that the assessee after getting the provisional approval u/s 80G(5) of the Act did not applied for regular approval u/s 80G(5) of the Act within the stipulated period of 6 months from the start of activities as provided in Clause (iii) of

proviso to Section 80G(5) of the Act. After issuing the above notice seeking the explanation of the assessee, the CIT Exemption has rejected the application and also cancelled the provisional approval in para 5 as under:

"5. In view of the above facts, the application of the assessee in Form 10AB for grant of registration u/s 12AB of the Act is hereby rejected and the provisional registration/approval u/s 12AB in Form 10AC vide URN No. ABUAS7259PE20221 dated 30.11.2022 granted by CPC is also hereby cancelled as per the provisions of section 12AB (1)(b)(ii)(B) of the Act."

5.2 It is pertinent to note that the CBDT vide Circular No.7/2024 dated 25.04.2024 extended the time limit for making the application till 30th June, 2024 and consequently the assessee has applied for regular approval u/s 80G(5) of the Act vide application dated 30.06.2024 placed at Page-3 of the synopsis. Thus, it is clear that after extension of time limit for making the application and consequent application filed by the assessee are the subsequent developments to the impugned order passed by the CIT Exemption. Accordingly, in the facts and circumstances of the case the impugned order is set aside and the matter is remanded to the record of CIT Exemption for reconsideration of the application of the assessee for registration u/s 12AB of the Act in the light of the

CBDT circular No.7/2024 dated 25.04.2024 as well as the application filed by the assessee for regular approval u/s 80G(5) of

the Act. Needless to say that the assessee be given an appropriate opportunity of hearing before passing the order.

6. In the result appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 09.10.2024.

Sd/-

(B.M. BIYANI)
Accountant Member

Sd/-

(VIJAY PAL RAO)
Judicial Member

Indore, 09.10.2024

Dev/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*