

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA Nos. 1990 & 1992/MUM/2024  
Assessment Year: 2024-25**

Rox Foundation,  
42A, First Floor, Impression  
House G.D Ambekar Marg,  
Mumbai-400031.

**PAN NO. AAMCR 1671 D  
Appellant**

**Vs.** CIT Exemption,  
601, 6<sup>th</sup> floor, Cumbala Hill, MTNL TE  
Building, Peddar Road, Dr Gopalrao  
Deshmukh Marg, Cumballa Hill,  
Mumbai-400026.

**Respondent**

Assessee by : Mr. Ashitosh (Hybrid)  
Revenue by : Mr. R.R. Makwana, Sr. DR

Date of Hearing : 15/10/2024  
Date of pronouncement : 22/10/2024

**ORDER**

**PER OM PRAKASH KANT, AM**

These appeals by the assessee are directed against separate orders, both dated 18.03.2024, passed by the Ld. Commissioner of Income-tax (Exemptions), Mumbai [in short 'the Ld. CIT(E)'] in relation to registration of the assessee trust u/s 12AB and registration u/s 80G of the Income-tax Act, 1961 (in short 'the Act')



wherein the registrations sought by the assessee have been cancelled.

2. In the grounds raised, the assessee has sought for setting aside the order of the Ld. CIT(E).

3. We have heard rival submission of the parties and perused the relevant material on record. In the case, the Ld. CIT(E) has rejected the registration of the assessee u/s 12AB and 80G of the Act mainly for the reason that the object clause of the assessee trust contained scope of application of the funds beyond the territory of the country. The relevant finding of the Ld. CIT(E), while rejecting registration u/s 12AB is reproduced as under :

*“3. On verification of the application in Form 10AB filed by the assessee, it was found that the application was not complete, and all the documents required to be accompanying the application were not furnished. Hence, a notice was issued to the applicant vide DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1058708320(1) dated 13.12.2023 requesting the assessee to furnish the complete set of documents mentioned in Rule 17(2). The assessee has not filed its submission. Further, a reminder notice was issued to the applicant ITBA/EXM/F/EXM43/2023-24/1060056978(1) vide DIN & Notice No. dated 24.01.2024 requesting the assessee to furnish the complete set of documents mentioned in Rule 17A(2). The assessee has filed submission on 30.01.2024. On perusal of the submission on record, it is found that in objects of the company as evident from the MoA the following discrepancy was observed.*

*“III(B) (xiii). To enter into any arrangement with any Government or authority, Indian or Foreign, municipal, local body or other public or quasipublic or any body corporate -----.*

*(xv). To enter in to partnership or any agreement for sharing, union of interest, joint ventures, reciprocal concession or*



*otherwise with any person, company or firm (Indian or Foreign) carrying on or engaged in or -----*

*(xvii). To procure the Company to be registered or recognised in any part of the world.*

*IV. The objects of the Company extend to the territories comprised in the Union of India and all other countries of the world. "*

*4. Accordingly, showcase notice was issued vide DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1060878330(1) dated 13.02.2024 to the assessee, that why the application for registration should not be rejected. The assessee filed its submission on 21.02.2024. It is stated as under:*

*"It is a general clause entered to cover all the future donations if any received from foreign contributions to be received we shall first apply for a FCRA certificate for the Section 8 company..."*

.....

*5. As per provision of section 11(1) of the IT Act, 1961 exemptions subject to the grant of registration is accorded to income i.e. applied for charitable purpose for India. The above referred clauses in your trust proposed to apply public charitable funds received beyond Indian Shores. In view of the same, this application for grant of registration is not maintainable and the same is rejected."*

3.1 Before us, the Ld. counsel for the assessee submitted that assessee is willing to modify its object clause removing the relevant clause having scope for application of the income beyond the territory of the India. The Ld. counsel has filed a copy of such undertaking on record. In view of undertaking, we feel in appropriate to restore the matter back to the file of the Ld. CIT(E) for examining the modified object clauses of the assessee and decide the issue of registration u/s 12AB as well as 80G of the Act in accordance with law. The grounds raised by the assessee in both the appeals are accordingly allowed for statistical purposes.



4. In the result, both the appeals of the assessee are allowed for statistical purposes.

**Order pronounced in the open Court on 22/10/2024.**

**Sd/-  
(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 22/10/2024  
Rahul Sharma, Sr. P.S.

**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,  
(Assistant Registrar)  
**ITAT, Mumbai**