

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 245/Coch/2024

Assessment Year : 2024-25

M/s. Sahridaya Trust, Kochayathu Veedu, Kannimelcherry, Kavanad P.O., Kollam – 691 003. PAN: AATTS7340A	Vs.	The Commissioner of Income Tax (Exemption), Kochi, Kerala.
APPELLANT		RESPONDENT

Assessee by	:	Shri R. Krishnan, CA
Revenue by	:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing	:	03-10-2024
Date of Pronouncement	:	28-10-2024

ORDER

PER BENCH

This is an appeal filed by the assessee challenging the rejection order of the Ld.CIT(E), Kochi dated 25/09/2023.

2. The facts of the case are that the assessee is a charitable trust and applied for approval u/s 80G in form 10AB on 02/03/2023. The Ld.CIT(E) had rejected the application for registration u/s. 80G of the Act for the reason that the assessee had not filed audited report. As against the

rejection order, the assessee is in appeal before the Tribunal with the following grounds:

“1) The learned Commissioner of Income Tax (Exemption) erred in rejecting the application for registration u/s 80G of the Income Tax Act, for the reasons stated by him.

2) The learned Commissioner of Income Tax (Exemption) ought not to have held that the application is premature, particularly when there is no time limit under the Act.

3) The learned Commissioner of Income Tax (Exemption) ought to have appreciated that there is no such specification in the Income Tax Act, to the effect that a Trust can apply for registration u/s 80G of the Income Tax Act only if it had filed its' audit report in Form 10B/ 10BB.

4) The learned Commissioner of Income Tax (Exemption) ought to have appreciated that a Trust grows only when they receive donations, for which purpose the registration u/s 80G is sought for.

5) The learned Commissioner of Income Tax (Exemption) erred in not providing an opportunity to the appellant, before proceeding to reject the application for registration u/s 80G of the Income Tax Act. This is against the principles of natural justice.

Appellant prays that the order of the Commissioner of Income Tax (Exemption) may be set aside with a direction to grant registration u/s 80G to the appellant.”

The present appeal has been filed with a delay of 123 days and the assessee filed an application to condone the said delay. The assessee explained that the delay has been occurred because of the ill health of the trustee and the delay in contacting the Auditors. We are convinced with the above said reasons and condoned the said delay.

3. At the time of hearing, the Ld.AR submitted that there is no prohibition under the Act to get registration u/s. 80G of the Act only when the assessee had filed its audited report in form 10B/10BB. The Ld.AR further submitted that the finding of the Ld.CIT(E) that the application is premature is also not correct when there is no time limit prescribed under

the Act and prayed to allow the appeal. The Ld.DR relied on the order of the Ld.CIT(E) and prayed to dismiss the appeal.

4. We have heard the arguments advanced by both sides and perused the materials available on record.

5. We find from the impugned order that the Ld.CIT(E) had rejected the application only on the ground that the assessee had not filed the audited report in form 10B/10BB. Before passing such an order, we do not find that the Ld.CIT(E) had granted an opportunity of being heard to the assessee. Further, there is no compulsion prescribed under the provisions of the Act that in order to get the registration u/s. 80G of the Act, the assessee has to file their audited report. Even Rule 11AA(2)(g) specifies that the, where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made self certified copies of the annual accounts of the applicant relating to such prior year or years(not being more than three years immediately preceding the year in which the said application is made) for which accounts have been made up. Therefore the procedure has been contemplated in Rule11AA(2)(g) which does not prescribe that the assessee should file audited report in form 10B/10BB of the Act. Therefore the reasons given by the Ld.CIT(E) in its order is not correct that too without granting an opportunity of being heard. In view of the above said facts, we are inclined to set aside the order of the Ld.CIT(E) and remit the issue to the file of the Ld.CIT(E) to decide the issue afresh after hearing the petitioner in accordance with law.

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

Order pronounced in the open court on 28th October, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 28th October, 2024.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin