

**आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.1575/PUN/2024**

Sudhagad Vipassana Samiti, Office No. 1, 1 <sup>st</sup> Floor, B Wing, Surya Tower, Erandwana, Pune – 411004  PAN : AAZTS1867N	<b>Vs.</b>	CIT (Exemption), Swargate, Pune
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	Shri Nikhil Mutha
Department by :	Shri Ajay Kumar Keshari
Date of hearing :	23-10-2024
Date of Pronouncement :	07-11-2024

**आदेश / ORDER**

**PER ASTHA CHANDRA, JM :**

The appeal filed by the assessee is directed against the order dated 03.06.2024 of the Ld. Commissioner of Income Tax (Exemption), Pune [**"CIT(E)"**] whereby he rejected the application of the assessee filed before him in Form No. 10AB on 11.12.2023 under clause (iii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961 (**the "Act"**).

2. The assessee has raised the following grounds of appeal :-

“1. *Ground 1: Violation of principle of natural justice*

*In the facts and circumstances of the case and in law, the learned CIT(E) erred in rejecting the application for final registration under section 80G(5) of the Act drawing a presumption that the Appellant has nothing to say in the matter on merits without providing further opportunity to file submission and present the case.*

2. *Ground 2: Challenging rejection of registration under section 80G(5) on merits*

*In the facts and circumstances of the case and in law, the learned CIT(E) erred in rejecting the application for final registration under section 80G(5) of the Act without appreciating that all the alleged reasons for rejection were adequately addressed in the first response itself filed by the Appellant alongwith relevant back-up evidences.*

*In doing so, the learned CIT(E) erred in:*

(a) *Not appreciating that the Trust has conducted dissemination of teachings & knowledge regarding Vipassana Meditation, the said facts being evident from the note on activity, back-up*

*photos, nature of expenses incurred and list of participants filed in response to the first submission.*

- (b) Not appreciating that the Trust was also in active discussions with various institutes to acquire fixed place for setting up Vipassana Meditation facility.*
- (c) Not appreciating that the Trust had submitted complete details of donations, both earmarked funds as well as general donations, which included the Date, Name of the Donor, Address of Donor, Mode of receipt and amount, as part of its first submission.*
- (d) Not appreciating that the Trust had incurred course expenses while disseminating Vipassana knowledge in the nature of Rent, Laundry, Food Expenses, etc, evident from the details including invoices and vouchers filed as part of its first submission.*
- (e) Not appreciating that the Trust has been registered under the erstwhile provisions of section 12AA of the Act and thereafter has also been granted final approval under the new provisions of section 12A(1)(ac) (i) of the Act, which is only after accepting the charitable nature of the activity conducted by the Trust.*

3. Briefly stated, the facts of the case are that the assessee was granted final registration in Form No. 10AC on 06.04.2022 u/s 12A(1)(ac)(i) with salient activities as education and yoga valid from the AY 2022-23 to 2026-27. Provisional registration under clause (iv) of first proviso to sub-section (5) of section 80G was granted on 26.08.2023. The assessee made an application for final registration under clause (iii) of first proviso to sub-section (5) of section 80G on 11.12.2023. On receipt of the assessee's application along with annexure thereto, with a view to verify the genuineness of the activities of the assessee and fulfillment of conditions laid down in clause (i) to (v) of section 80G(5) of the Act, the Ld. CIT(E) issued notice on 14.03.2024 requiring the assessee to upload certain information/details under the provisions of sub-clause (a) of clause (ii) of second proviso to section 80G(5) of the Act. The compliance was sought by 29.3.2024. The notice was duly served on the assessee through e-portal and email. In response thereto, the assessee filed its written submission on 27.03.2024. The Ld. CIT(E) noted various discrepancies on verification of the details filed by the assessee. He, therefore, issued another notice on 04.05.2024 communicating the discrepancies to the assessee and asking to show cause as to why the application should not be rejected and why the provisional approval granted u/s 80G(5) of the Act should not be cancelled. The compliance to this show cause notice was sought by 10.05.2024, the notice was duly served on the assessee through e-portal and email. However, the assessee failed to respond. The Ld. CIT(E),

therefore, proceeded to pass the impugned order on 03.06.2024 rejecting the application of the assessee and also cancelling the provisional approval granted under clause (iv) of first proviso to section 80G(5) of the Act, observing as under:

*“3. Since, the assessee has not furnished any explanation to the discrepancies communicated to it, it is presumed that the assessee has nothing to say in the matter.*

*4. Considering the above facts discussed in the show notice and discrepancies noticed and also that the assessee has not complied with the provisions of sub-clause (a) of clause (i) of second proviso to section 80G(5) of the Income Tax Act, 1961 as well as the provisions of Rule 11AA(2) of Income Tax Rules, 1962 in spite giving sufficient opportunities, the undersigned is unable to draw any satisfactory conclusion about the genuineness of activities of the assessee and fulfillment of conditions laid down in clause (i) to (v) of section 80G(5) of the Act.*

*5. The activity note furnished by the assessee is not giving specific details of activities, beneficiaries data and details of places where activities has been carried out by the trust. Further, as per financial statements furnished by the assessee, no expenses are seen to be done by the assessee in last 3 years. Also, the assessee has failed to furnish the details called for regarding earmarked funds. Hence, the undersigned is not in a position to arrive at any satisfaction about the genuineness of the activities of the trust / institution.*

4. Dissatisfied, the assessee is in appeal before the Tribunal.

5. The Ld. AR submitted that all the requisite details were duly filed by the assessee before the Ld. CIT(E) on 27.03.2024 in response to the notice dated 14.03.2024. He referred to pages 23 to 175 of the paper book showing the details/documents filed by the assessee before the Ld. CIT(E) in support of the genuineness of the activities being carried out by the assessee trust. However, the Ld. CIT(E) did not consider the same and appreciated the facts mentioned therein in correct perspective. He submitted that given an opportunity the assessee is in a position to address the discrepancies observed by the Ld. CIT(E) and also file any further information / documents as may be called upon in support of the application filed by the assessee.

6. The Ld. DR, on the other hand, submitted that the assessee failed to make the requisite compliance to the show cause notice and remove the discrepancies observed by the Ld. CIT(E) in spite of adequate opportunity provided by the Ld. CIT(E) and therefore, he was fully justified in rejecting the application of the assessee.

7. We have heard the Ld. Representatives of the parties and perused the records. We notice that the assessee has already been granted the final registration u/s 12A(1)(ac)(i) of the Act and the provisional registration u/s 80G(5) on 26.08.2023. Perusal of pages 23 to 176 of the paper book referred by the Ld. AR reveals that the assessee filed certain details/documents before the Ld. CIT(E) which included : *“(a) note on activities, including the fact that pending allocation of land and construction of the meditation center, the activities were conducted in rented premises; (b) correspondences exchanged with other charitable trusts regarding the allocation of land on a long-lease basis; (c) photographs of activities undertaken through rented premises; (d) teacher-wise list of students who attended the meditation course; (e) profit and loss statement for FY 2023-24, demonstrating the expenses incurred in running the courses from rented premises and list of all donations, including corpus/earmarked donations, received by the trust”*. However, being dissatisfied with the above details/documents furnished by the assessee as also due the lack of any response to the discrepancies pointed out, the Ld. CIT(E) observed that he could not draw any satisfactory conclusion about the genuineness of activities of the assessee and fulfillment of conditions laid down in clause (i) to (v) of section 80G(5) of the Act. We observe that after verification of details/documents submitted by the assessee in response to the first notice dated 14.03.2024, only one opportunity was granted to the assessee by the Ld. CIT(E) vide show cause notice dated 14.05.2024 to which the compliance was sought by 10.05.2024. Since the assessee failed to respond to the said show cause notice, the Ld. CIT(E) rejected the application and also cancelled the provisional registration granted under the provisions of section 80G of the Act by passing the order on 03.06.2024. Before us, the Ld. AR has submitted that given an opportunity the assessee is in a position to file the requisite details/documents to substantiate its application and offer the explanation to the discrepancies pointed out by the Ld. CIT(E).

8. On the facts and in the circumstances of the case enumerated above, we deem it fit in the interest of justice and fair play to set aside the order of Ld. CIT(E) and restore the matter back to his file for adjudication afresh after allowing reasonable opportunity of being heard to the assessee who shall provide the requisite support in terms of submitting the relevant documents/evidence as may be required/called upon on the appointed date without seeking any adjournment under any pretext, failing which the

Ld. CIT(E) shall be at liberty to pass appropriate order as per fact and law.  
We order accordingly.

9. In the result, the appeal of assessee is treated as allowed for statistical purpose.

**Order pronounced in the open court on 07<sup>th</sup> November, 2024.**

Sd/-  
(R.K. Panda)  
**VICE PRESIDENT**

Sd/-  
(Astha Chandra)  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 07<sup>th</sup> November, 2024.  
रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune