



**BEFORE HON'BLE SMT ASTHA CHANDRA, JUDICIAL MEMBER  
AND**

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

आयकर अपीलसं. / ITA No. 1490/PUN/2024

Rotary District Welfare Fund R.I.D. 3131

Flat No.02, Nalini Apartment,

S.No. 03/10, Erandwane,

Karve Rd., Pune-4110004.

PAN:AACTR7246R

..... अपीलार्थी / *Appellant*

बनाम / V/s

Commissioner of Income Tax Officer

Exemption, Pune.

..... प्रत्यर्थी / *Respondent*

**द्वारा / Appearances**

Assessee by : Mr Sharad Shah ['Ld. AR']

Revenue by : Mr Ajaykumar Kesari ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 14/10/2024

घोषणा की तारीख / Date of Pronouncement : 26/11/2024

**आदेश / ORDER**

**PER G. D. PADMAHSHALI, AM;**

The assessee agitates the DIN & Order No.

ITBA/EXM/F/EXM45/2024-25/1064945684 dt. 16/05/2024 passed

u/s 80G(5) of the Income-tax Act, 1961 [hereinafter 'the Act'] of Ld.

Commissioner of Income Tax (Exemption), Pune [hereinafter

'CIT(E)'] whereby application for grant regular 80G(5) registration

was rejected *in limine* as time barred.



2. **Tersely stated facts borne out of case records are that;** the assessee was granted a provisional 80G recognition/registration on 16/11/2025 by the respondent, pursuant to which the assessee e-filed application in Form No 10AB on 25/11/2023 thereby sought grant of regular registration certificate u/s 80G(5)(iii) of the Act under the category of charitable society / institution. In-order to verify objects, genuineness of activities and to ascertain the fulfilment of conditions for granting regular registration u/s 80G(5) of the Act, the assessee by notice dt. 16/01/2024 was called upon to furnish certain key but additional documents. The submission made by the assessee revealed certain discrepancies/shortcoming therefore Ld. CIT(E) vide further show cause notice dt. 30/04/2024 [hereinafter ‘SCN’] called upon the assessee to rectify the same. In the event of assessee’s effective failure comply with said SCN, the Ld. CIT(E) by the impugned order rejected the assessee’s application for grant of regular 80G certificate on twofold grounds which inter-alia includes; (a) non-compliance with SCN dt. 30/04/2024 requiring rectification of discrepancies notified, and production of copy of registration u/s 12AB r.w.s. 12A(1)(ac)(iii) or 10(23) of the Act, and (b) application being barred by limitation.



3. Aggrieved by the said rejection, the assessee came in present appeal on as many as three argumentative grounds, which are inconsonance with rule 8 of ITAT-Rules, 1963 for the reason reproduction thereof for our adjudication considered unnecessary. However, it shall suffice to state that the substantive issue in present appeals revolves around law of limitation beside non-compliance.

4. We have heard the rival submissions; and subject to provisions of rule 18 (supra), perused the material placed on record. Had rejection been exclusively founded owing to non-compliance with the SCN; after considering the reasons there behind at the very outset we could have simply remanded the file back to the Ld. CIT(E) with a direction to accord one more opportunity to the appellant to comply with the SCN. However, the said rejection since also founded on law of limitation therefore we proceed further to adjudicate the same on merits in the light of settled law and judicial precedents.

5. We note that, the appellant assessee is a Trust registered vide Regn No. E-7383(Pune) on 11/01/2016 with objects akin to ‘charitable purpose’ as defined by section 2(15) of the Act. On an application, the appellant Trust was granted a provisional registration



u/s 80G(5)(iv) of the Act on 16/11/2023 by the Revenue. Pursuant thereto, on 25/11/2023 the appellant applied for regular/final registration in terms of clause (iii) of first proviso to s/s (5) of section 80G of the Act. The aforesaid application was admittedly filed within six months of grant of provisional registration and much earlier before six months prior to expiry of provisional registration. The said application however beside non-compliance with SCN was rejected for key reason that; it was not filed/applied within a period of six months of commencement of its charitable activities by the appellant. In view of the Ld. CIT(E) the application was time barred by limitation as it was not made within a period of six months from date of commencement of activities i.e. within six months from 11/01/2016. In view of the Revenue the time clock of six months commenced as soon the appellant commenced its activities on 11/01/2016 irrespective of date of grant of provisional registration.

6. In adjudicating this solitary issue of limitation for better appreciation the relevant provisions of proviso to section 80G is extracted herein below;

*'Provided that the institution or fund referred to in clause (vi) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—*



- (i) .....
- (ii) .....

**(iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;**

*(Emphasis supplied)*

7. The unadorned reading of the provision clearly suggests us that, where a provisional registration u/s 80G(5) is granted to an assessee, this clause (iii) (supra) obligates such assessee for making an application for regular/final registration within stipulated a period of six months of occurrence of either events i.e. (1) at least six months prior to expiry of the period of the provisional approval or (2) within six months after the activities are commenced. Apparently, this proviso prescribes two timelines which are though mutually exclusive but one operates subject to other as an applicant assessee in all circumstance is allowed a period of six month for seeking regular registration depending upon commencement of activities.

8. The aforestated provision capable of suggesting unambiguously that, a minimum period of six months is available to all assessee upon & from a grant of provisional registration irrespective of date of establishment/trust/institution and also irrespective of date of commencement where activities of such assessee is already



commenced prior to the grant of provisional registration. We say so because this timeline stipulated for seeking regular registration since fastened to provisional grant therefore such can only commence after the said provisional registration comes into effect and thus runs therefrom. Conversely, such timelines shall in no case to commence from the date prior to date of provisional registration granted, because right/entitlement to apply for grant of regular registration comes into existence only upon the grant of provisional registration and not otherwise.

9. To dilate in simple terms, we quote that there could only be two scenarios viz; (a) activities commenced prior to grant of provisional registration or (b) activities commenced after provisional registration is granted. In the former case, the period of six months would run from the date of provisional registration granted and in later case the period of six months would commence from date when activities of applicant assessee commences.

10. In view of the aforestated deliberation, in the present case, we noted that, the appellant assessee was established/commenced its operation/activities on/w.e.f. 11/01/2016 and provisional registration



u/s 80G(5) of the Act was granted to it by an effective order dt. 16/11/2025, and pursuant thereto the appellant vide its application dt. 23/11/2023 applied for grant of regular registration.

11. There was no dispute over adherence to former first time lines as the application for regular registration was filed well within six months before the date expiry of grant of provisional registration. The appellant commenced its activities much prior to provisional grant, therefore first in order the appellant was subjected to second timeline to file its application for regular registration was clear six months from the date of provisional grant which undisputed adhered to, hence rejection on the ground of limitation unsustainable in law. This view find subscribed by various Co-ordinate bench across the country.

12. *Au contraire* the aforestated timeline *de-fact* do not explicitly envisage a situation where activities are already commenced prior to grant of provisional registration therefore, setting a time clock of six months anterior to a grant of provisional registration would cause violence to an unambiguous provision of law. Anteceding the commencement of period of six months to grant of actual provisional



registration where activities are commenced prior to such provisional grant in our mindful view would be like asking one to apply for school admission even before birth certificate of newly born child is obtained, therefore deplorable.

13. In view of the above and maintaining parity with the decisions on the subject matter, rejection of appellant's application dt. 25/11/2023 on the grounds of limitation is set-aside for remand to the file of Ld. CIT(E) to the stage of service of SCN and with a direction to treat the former application as filed within the time limit prescribed u/c (iii) to first proviso to section 80G(5) of the Act and adjudicate the same on merits in accordance with law after according three effective opportunities to the appellant assessee.

**14. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSES.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on the date of conclusive hearing.

-S/d-

**ASTHA CHANDRA**  
**JUDICIAL MEMBER**

PUNE ; Dated : 26<sup>th</sup> day of November, 2024.

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

1. अपीलार्थी / The Appellant.  
4. The Pr. CIT(E), Pune

2. प्रत्यर्थी / The Respondent.  
5. DR, ITAT, 'B' Bench, Pune

-S/d-

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

Panaji/Dated : 06th November, 2024

3. The Pr. CIT, Pune  
6. गार्डफाइल / Guard File.

आदेशानुसार / By Order,  
वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.