

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

ITA No.2019/Bang/2024
Assessment year : Not Applicable

Kodava Samaj R Mysore, 0, General Thimmaiah Road, Vijayanagar First Stage, Mysuru – 570 017. PAN: AAATK 7599N	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri B.N. Chandrashekar, CA
Respondent by	:	Shri D.K. Mishra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	27.11.2024
Date of Pronouncement	:	28.11.2024

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Kodava Samaj R Mysore (the assessee/appellant) against the appellate order passed by the Id. Commissioner of Income-tax (Exemptions) [Id. CIT(E)] dated 21.09.2024 in Form 10AD wherein application filed by the assessee for recognition u/s. 80G(5) of the Income-tax Act, 1961 (the Act) was rejected. Assessee is aggrieved with that and has preferred this appeal raising only the substantial ground

mentioned at ground No.2 of the appeal which is rejection of application of recognition under that section.

2. As per the facts stated, assessee is a charitable trust registered under the Karnataka Societies Registration Act, 1960 since 12.04.1979 which is engaged in educational activities and was granted registration u/s. 12AA of the Act by the CIT, Mysore on 13.6.2008 which was re-registered under the new provisions on 24.9.2021. The trust was also having recognition u/s. 80G of the Act since 5.6.2009. Under the new regime, once again provisional recognition u/s. 80G(5) was granted on 10.3.2022. Assessee submitted Form 10AB for final approval u/s. 80G(5) on 21.3.2024.
3. On examination of this application, Id. CIT(E) issued notices on 22.7.2024 wherein assessee was asked to appear on 05.8.2024. However there was unfortunate demise of relative of authorized representative on that date. Therefore further notice was issued on 14.8.2024 fixing date of hearing on 27/08/2024 which was received by assessee only on 27.8.2024, therefore assessee could not appear on that date and order was passed on 21.9.2024 wherein the last hearing was recorded of 14.8.2024 at sl.no.10. As the assessee could not submit the detail to the notices issued, Id. CIT(E) rejected the application of assessee in Form 10AB and provisional approval granted earlier was cancelled.
4. The Id. AR submitted a written note dated 27.11.2024 wherein the above facts are reiterated and only request is that assessee may be granted opportunity of submitting the details once again.

5. The Id. DR supported the order of the Id. CIT(E) stating that when the assessee did not appear, there is no option left with the Id. CIT(E), except rejecting the same.
6. We have carefully considered the rival contentions and perused the orders of the Id. CIT(E) rejecting the provisional approval granted to the assessee u/s. 80G(5) of the Act, the solitary reason being that assessee has not responded, but failed to submit necessary documents called for. We find that assessee was granted first opportunity by notice dated 22.7.2024 fixing the date of hearing on 05.8.2024, but due to death of relative of counsel, no compliance was made. Further notice dated 14.8.2024 was issued fixing the date of hearing on 27.8.2024, which was received by assessee only on 27.8.2024, therefore there was no compliance on the side of assessee and subsequently on 21.9.2024, the Id. CIT(E) passed the order rejecting the approval. The only reason for rejecting the approval is non-submission of details by assessee.
7. In view of the above peculiar situation, it is apparent that assessee could not submit the requisite details, though holding the 80G recognition since 2008. Therefore undisputedly as assessee-trust is carrying on charitable activities and also having recognition u/s. 80G(5) as well as granted provisional recognition also, if one more opportunity is granted to submit the details, no prejudice would be caused to either parties. In view of this, we direct the assessee to comply with the notices and submit all the details called for by the Id. CIT(E) within 90 days from the date of receipt of this order. The Id. CIT(E) may examine the same and if found

in order, grant recognition to the assessee. Needless to say that requisite opportunity of hearing be granted to the assessee. The solitary ground of appeal as per ground No.2 is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 28th day of November, 2024.

Sd/-

(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 28th November, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.