

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

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

**आयकर अपील सं. / ITA Nos.1128 & 1129/PUN/2024**

Anand Dham Foundation, C/o Abjhay Machinery, Plot No. 53 Market Yard, Ahmednagar – 414001  PAN : AAITA3106F	<b>Vs.</b>	CIT (Exemption), Pune
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	Shri Prasad S Bhandari
Department by :	Shri Amol Khairnar
Date of hearing :	06-11-2024
Date of Pronouncement :	29-11-2024

**आदेश / ORDER**

**PER ASTHA CHANDRA, JM :**

Two appeals filed by the assessee are directed against the two separate order(s) dated 26.10.2022 and 27.11.2022 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 u/s 12A(1)(ac)(iii) on 27.04.2022 and section 80G(5)(iii) of the Income Tax Act, 1961 (**the "Act"**) filed on 03.05.2022 respectively. These were heard together and are being disposed of by this order.

2. Both the appeals are filed with a delay of 512 and 480 days. The assessee has filed an application along with a sworn affidavit of the President of the assessee trust seeking condonation of delay in filing of the appeal(s) stating therein the reasons for delay as under :

“3. On receipt of order, we have approached our consultant and requested to do the needful. He assured to file the appeal against the said order before the Hon'ble Bench by the due date. After few days, we enquired about the status of the appeal, then he said that the appeal shall be filed soon as during the month of November, 2022 his himself was suffering with a medical decease. The copy of medical report is attached herewith as per Annexure -1.

4. Thereafter, during the month of December, 2022 unfortunately, his father detected with Prostate Cancer. The copy the Medical Report is attached herewith as per Annexure-2. Due to this shock, he was totally disturbed and could not attend the office regularly. Since then, he got busy with the medical treatment of his father. Since, the medical treatment started in Pune he had to travel frequently from

Nagar to Pune. To evidence the medical treatment of his father, the medical papers in the year 2023 & 2024 are attached herewith as per Annexure-3.

5. *We reminded him frequently to file the appeal as soon as possible, but due to his genuine medical emergency, he could not file the appeal till May 2024. Ultimately, due to his unavailability on frequent travel in his father's medical emergency, he recommended another consultant in the month of May 2024 to file the said appeal.*
6. *Accordingly, we approached the new consultant as recommended by him and immediately filed the said appeal before the Hon'ble Bench. Thus, due to this genuine reason, we could not file the appeal within the due date.*
7. *Due to this reason, there is delay in filing the said appeal by 476 days before Hon'ble Bench against the appellate order passed by the respected CIT (Exemption), Pune rejecting the approval u/s 80G, which may please be condoned."*

2.1 The Ld. DR opposed the application for condonation of delay contending that there was no sufficient cause that has been demonstrated by the assessee for the said delay.

3. After hearing both the sides, we are of the view that the delay is not intentional or deliberate but attributable to the sufficient cause. We, therefore, condone the delay in filing of both the appeals and proceed to decide the appeals.

#### **ITA No. 1128/PUN/2024**

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

1. *On the facts and in the prevailing circumstances of the case, the (Exemption) learned CIT Pune erred in rejecting the application of the assessee for seeking approval under section 12AB without appreciating the submission made by the assessee Trust. Hence, said order may please be set aside and the approval under section 12AB may please be granted.*
2. *On the facts and in the prevailing circumstances of the case. the (Exemption) learned CIT Pune erred in rejecting the application of the assessee for seeking approval under section 12AB of the Act without allowing the sufficient opportunity of being heard. Hence, said order may please be set aside and the approval under section 12AB may please be granted.*
3. *The Appellate craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal, if deemed necessary at the time of hearing of the appeal."*

5. Briefly stated, the facts of the case are that on receipt of the assessee's application filed in Form No. 10AB u/s 12A(1)(ac)(iii) of the Act along with annexures thereto, with a view to verify the genuineness of the activities of the assessee etc., the Ld. CIT(E) issued notice on 06.10.2022 through ITBA portal requiring the assessee to upload certain

information/clarification such as date of commencement of activity, date of expiry of provisional registration, details of any other law applicable for achievement of objectives and the proof of compliance of said law, proof of identity of main trustees / managing trustees / directors / trustees / secretary, list of donors, note on activities carried out in the last three years/inception etc. under the provisions of section 12AB of the Act. The compliance was sought by 13.10.2022. The assessee was specifically informed that in the event of failure to comply by due date, the matter will be decided based on material available on record. The notice(s) were duly served on the assessee through e-portal/e-mail. The Ld. CIT(E) observed that the evidences furnished in support of the activities undertaken are very sketchy ones. The said activities and the evidence in the form of some random snaps do not establish that the entity is engaged into any charitable activity. The Ld. CIT(E), hence proceeded to pass the impugned order rejecting the application of the assessee.

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

7. The Ld. AR submitted that there was no intentional non-appearance before the Ld. CIT(E). As can be seen from the order of the Ld. CIT(E) only one opportunity of hearing was granted to the assessee vide notice dated 06.10.2022 to which the compliance was sought by 13.10.2022. Before the assessee could file its reply in response to the said notice, the Ld. CIT(E) proceeded to pass the impugned order rejecting the application of the assessee on 26.10.2022. He submitted that given an opportunity the assessee is in a position to submit all the requisite details/ documentary evidence before the Ld. CIT(E) in support of its application. He, therefore, prayed that the matter may be set aside to the file of the Ld. CIT(E) to adjudicate the same on merits afresh after affording one more opportunity of being heard to the assessee.

8. The Ld. DR conceded to the above proposition of the Ld. AR.

9. We have considered the rival submissions and perused the records. On the facts and in the circumstances of the assessee's case, we are of the view that it would be judicially expedient and in the interest of justice and fair play if the matter is restored back to the file of Ld. CIT(E) to consider afresh the assessee's application for registration u/s 12A(1)(ac)(iii) of the Act and decide the matter on merits, in accordance with facts and law after

allowing adequate opportunity of being heard to the assessee and present its case. The assessee shall provide the requisite support in terms of submitting the relevant details/documentary evidence as may be required/called upon on the appointed date, failing which the Ld. CIT(E) shall be at liberty to pass appropriate order as per law. We order accordingly.

10. In the result, the appeal of assessee is treated as allowed for statistical purposes.

**ITA No. 1129/PUN/2024**

11. The brief facts in this appeal are that the assessee trust applied for final registration u/s 80G(5)(iii) of the Act on 03.05.2022. On receipt of the assessee's application filed in Form No. 10AB under clause (iii) of first proviso to section 80G(5) of the Act along with annexures thereto, with a view to verify the genuineness of the activities of the assessee etc., the Ld. CIT(E) issued notice on 12.09.2022 through ITBA portal requiring the assessee to upload certain information/clarification such as date of commencement of activity, date of expiry of provisional registration, details of any other law applicable for achievement of objectives and the proof of compliance of said law, proof of identity of main trustees / directors / trustees, year-wise list of donations received, note on activities carried out along with supporting credible evidence etc. The compliance was sought by 27.09.2022. The assessee was specifically informed that in the event of failure to comply by due date, the matter will be decided based on material available on record. The notice(s) were duly served on the assessee through e-portal/e-mail. After considering the assessee's application along with annexure thereto the Ld. CIT(E) proceeded to pass the impugned order observing that since the assessee has failed to furnish the details called for it is not possible to verify the genuineness of the activities of the trust as also fulfillment of conditions laid down in clauses (ii) to (v) of section 80G(5) of the Act. Despite, giving sufficient opportunity to comply the assessee failed to respond, it therefore seems that the assessee has no supporting documents/ evidences to submit. The Ld. CIT(E) further observed that the assessee is neither registered u/s 12AB read with section 12A(1)(ac)(i)/12A(1)(ac)(iii) nor approved u/s 10(23C) read with clause (i)/(iii) of first proviso to the said section and the case is not covered under the exclusions provided vide proviso to clause (i) of section 80G(5) of the Act. The assessee is also not a Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and

present members of such forces or their dependants. In fact, the application of the assessee in form No. 10AB for registration u/s 12AB filed under the provisions of section 12A(1)(ac)(iii) of the Act has been rejected vide order dated 26.10.2022. Therefore, the condition (i) of section 80G(5) of the Act is not fulfilled in this case. The Ld. CIT(E) hence passed the impugned order rejecting the assessee's application u/s 80G(5)(iii) of the Act.

12. Aggrieved, the assessee is in appeal before the Tribunal by raising the following grounds of appeal :

- “1. On the facts and in the prevailing circumstances of the case, the (Exemption) learned CIT Pune erred in rejecting the application of the assessee for seeking approval under section 12AB without appreciating the submission made by the assessee Trust. Hence, said order may please be set aside and the approval under section 80G may please be granted.
2. On the facts and in the prevailing circumstances of the case, the learned CIT (Exemption) - Pune erred in rejecting the application of the assessee for seeking approval under section 12AB of the Act without allowing the sufficient opportunity of being heard. Hence, said order may please be set aside and the approval under section 80G may please be granted.
3. The Appellate craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal, if deemed necessary at the time of hearing of the appeal.”

13. We find that the facts as narrated above in ITA No. 1129/PUN/2024 are identical to ITA No. 1128/PUN/2024 except the assessee seeking registration u/s. 80G of the Act. Since, the facts in ITA No. 1129/PUN/2024 are similar to ITA No. 1128/PUN/2024, the findings given by us while deciding the appeal of assessee in ITA No. 1128/PUN/2024 would *mutatis mutandis* apply to ITA No. 1129/PUN/2024, as well. Accordingly, the appeal of assessee is allowed for statistical purposes.

14. To sum up, both the appeals of the assessee in ITA Nos. 1128 & 1129/PUN/2024 are allowed for statistical purposes.

**Order pronounced in the open court on 29<sup>th</sup> November, 2024.**

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

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

पुणे / Pune; दिनांक / Dated : 29<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, "ए" बेंच,  
पुणे / DR, ITAT, "A" 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