

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER  
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2084/PUN/2024

Vashi Parivaar Foundation, A/6, Ganesh Compound, Dapole Road, Anjur-Mankoli Road, Gundavali, Bhiwandi, Thane, Maharashtra, India-421305 PAN : AAHCV3214H	Vs.	CIT (Exemption), Pune
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Manish Kumar Singh
Date of hearing	:	03.12.2024
Date of pronouncement	:	04.12.2024

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The captioned appeal at the instance of Assessee is directed against the order dated 08<sup>th</sup> August, 2024 framed by learned CIT (Exemption), Pune denying the grant of approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961 (in short 'the Act').

2. Briefly, the facts emanating from the record are that the appellant filed application on Form No.10AB for grant of approval under clause (ii) of first proviso to section 80G(5) of the Act on 16.02.2024. In order to verify the genuineness of activities of the assessee and fulfilment of conditions laid down in clauses (i) to (v) of section 80G(5), the ld.CIT(E) issued notice through ITBA portal on 01.05.2024 calling upon the appellant to upload certain information/clarification. In response, the

appellant submitted details/documents. Based on the details submitted by the appellant, the Id.CIT(E) issued another notice on 11.07.2024 pointing out certain discrepancies. However, there was no compliance by the appellant. In the event, the Id.CIT(E) rejected the application filed by it as 'non-maintainable' by observing as under :

“9. The non-submission of copy of regular approval under section 80G(5)(vi) of the Income Tax Act, 1961 established the fact that the prerequisite for application under clause (ii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961 is not fulfilled in this case. Therefore, prima-facie that the application is not maintainable.

10. In view of the above, the application filed by the assessee is treated as non-maintainable and hence, 'rejected' for statistical purposes without going into the merits of the case and no adverse inference is drawn against the assessee.”

3. Aggrieved appellant is in appeal before the Tribunal in the present appeal assailing the impugned order denying grant of approval u/s.80G(5)(ii) of the Act.

4. When the case was called on, none appeared on behalf of the appellant despite due service of notice of hearing. We therefore proceed to dispose of the appeal with the able assistance from the Id. Departmental Representative *ex parte* qua the assessee.

5. We have heard the Id. Departmental Representative and perused the material on record. It is brought to the notice of the Bench that appellant's case for grant of regular registration u/s.12A of the Act was remitted back by this Tribunal to the file of Id.CIT(Exemption) for *denovo* adjudication on merits in the M.A. No. 154/PUN/2023 (arising out of ITA No.517/PUN/2023, order dated 15.09.2023 by observing as under :

“5. Now, we go on to the merits of the case in assessee’s main appeal in ITA No.517/PUN/2023 and note that the ld.CIT(E)’s order dated 03.03.2023 has rejected assessee’s application only on the ground that assessee could not submit supporting documents as under :

“3.3 It is clear from the above that the assessee was given sufficient opportunity to comply, but it has not complied to the same. It seems that the assessee is not having any supporting documents / evidence to submit. The assessee has failed to comply with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 and hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee and has left no alternative but to reject the application.”

6. However, it is observed from the Affidavit filed by the assessee that it could not appear before the ld.CIT(E) as its Trustee’s father underwent surgery for cancer. Its junior staff is also stated not to have verified the spam of the emails. Hence, assessee could not file elaborate reply before the CIT(E).

7. The reasons submitted by assessee are found to be genuine and bonafide. The assessee had filed a paper book containing 177 pages which contains financials of the Assessee Trust, evidences of the activities performed in the form of the photographs, note on the activities and other documents. However, it is also a fact that these documents were not filed before the ld.CIT(E).

8. The ld.Departmental Representative(ld.DR) for the Revenue vehemently submitted that ld.CIT(E) must get an opportunity to verify the documents. In these facts and circumstances of the case, the order of the ld.CIT(E) is set-aside to ld.CIT(E) for *denovo* adjudication. The ld.CIT(E) shall provide opportunity of hearing to the assessee. The assessee shall file all necessary documents before the ld.CIT(E). Accordingly, appeal of the assessee in ITA No.517/PUN/2023 is allowed for statistical purpose.”

6. On perusal of the above order and in the interest of justice, we are of the opinion that it would be appropriate to remit the issue of grant of approval u/s.80G(5) on merits as well, being consequential, to the file of ld. CIT(E) for *denovo* adjudication after granting reasonable and proper opportunity to the appellant. Appellant is also directed to remain vigilant and make satisfactory compliance to the notice(s) of hearing issued by ld.CIT(E) and it should refrain from taking adjournments

unless otherwise required for reasonable cause. Effective grounds of appeal raised by the appellant are allowed for statistical purposes.

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

Order pronounced on this 04<sup>th</sup> day of December, 2024.

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> December, 2024.  
Satisfy

**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, "B" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.