

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

I.T.A No.5471/Mum/2024
(Assessment Year 2024-25)

Crusade Against Cancer Foundation, 22, Alka, 15 th Road, Santacruz West, Mumbai-400 054 PAN : AAATC2881K	vs	ITO (Exemption) 1(2), Mumbai MTNL Building, Cumballa Hills, Peddar Road, Mumbai
APPELLANT		RESPONDENT

Assessee by : None
Respondent by : ShriR.A. Dhyan CIT DR

Date of hearing : 02/12/2024
Date of pronouncement : 03/12/2024

ORDER

PER ANIKESH BANERJEE, J.M:

This appeal is filed against the order of theLd. Commissioner of Income Tax (Exemption), Mumbai[for brevity, 'Ld.CIT(E)'] passed under section 80G(5) of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2024-25, date of order 31.08.2024.

2. At the outset, we observe that none was present when the appeal was called for hearing and no adjournment petition was filed on behalf of the assessee. However, we find that the matter could be decided even without the presence from assessee's side on *ex-parte qua*. Therefore, we heard the Ld.DR and on the basis of the material available in the record and decided accordingly.

3. The assessee has taken the following grounds of appeal:-

"1. In the facts and in the circumstances of the case and in law, the Ld.CIT(E) erred in rejecting the application for renewal of the registration u/s 80G in Form No.10AB dated 239.03.2024 merely on the basis of mentioning of Incorrect clause in the said application disregarding the fact that the Trust is an existing Trust which had been granted registration vide order of registration dated 27-10-2009 w.e.f. 01-04-2009. Accordingly, the Ld.CIT(E) ought to have granted certificate of final registration u/s 80G(5) of the Act registering the Trust for five years i.e. from AY 2024-25 to AY 2028-20.

Without prejudice to the ground no. 1 above and in the alternate

I, In the facts and in the circumstances of the case and in law, the Ld. CIT(E) be directed to allow the appellant to file fresh application in physical mode for granting final registration from AY 2022-23 to AY 2026-27 by mentioning clause (i) of first proviso to section 80G(5) being applicable to an existing Trust instead of clause (iv) mentioned in the original application filed on 28-08-2021 being applicable to new Trust by condoning the delay in filing :he fresh application.

3. It is humbly prayed that the reliefs as prayed for hereinabove and/or such other reliefs as may be justified by the facts and circumstances of the case and as may meet the ends of justice should

4. The brief facts of the case is that the assessee trust has been granted provisional approval under section as per clause (iii) of first proviso to sub-section (5) of section 80G of the Act, as below: -

“(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.”

The Ld.CIT(E) rejected the application filed in Form 10AB by the assessee trust on the following grounds:-

“3. On perusal of the Form 10AB filed by the assessee it was observed that the assessee has applied under clause (ii) of first proviso to sub-section (5) of section 80G i.e. for renewal of approval and not for regularisation of provisional approval. Hence this Application is hereby rejected”.”

The aggrieved assessee filed the present appeal before the Tribunal.

5. We heard the Ld.DR and perused the materials available on record. The Ld.DR relied on the order of the Ld.CIT(E). However, we find from the order of the Ld.CIT(E) that he rejected the application filed by the assessee on the technical ground that the assessee has applied under section (ii) of first proviso to sub-section (5) of section 80G, i.e. for renewal of approval, in Form 10AB, instead of applying for regularization of provisional approval, under clause (iii) of first proviso to sub-section (5) of section 80G. This being a technical error and on the ground of substantial justice, in our considered view, the decision of the Ld.CIT(E) needs to be revisited. Therefore, we restore the issue to the file of the Ld.CIT(E) to consider the issue of renewal of approval afresh, substantially after providing adequate opportunity of hearing to the assessee.

6. In the result, the appeal of the assessee bearing **ITA No.5471/Mum/2024** stands allowed for statistical purpose.

Order pronounced in the open court on 03rd day of December, 2024.

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 03/12/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, Mumbai