

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &  
MS PADMAVATHY S, AM**

**I.T.A. No.5111/Mum/2024  
(Assessment Year: 2024-25)**

|  |     |   |
|--|-----|---|
| <b>Rambha Charitable Trust</b><br>Survey No. 212, 2 Plot 203,<br>Zylog Tower, Lane No. 4, Main<br>Road, Kalyaninagar, Pune-411006.<br><b>PAN : AAAATR3625C</b> | Vs. | <b>CIT(Exemptions)</b><br>601, 6 <sup>th</sup> Floor, Cumballa Hill MTNL<br>TE Building, Pedder Road, Dr.<br>Gopalrao Deshmukh Marg,<br>Cumballa Hill, Mumbai-400026. |
| <b>Appellant)</b>  | :   | <b>Respondent)</b>  |

**Appellant /Assessee by** : Smt. Aarti Vissanji, AR

**Revenue / Respondent by** : Smt. Sanyogita Nagpal, CIT-DR

**Date of Hearing** : 25.11.2024

**Date of Pronouncement** : 29.11.2024

**ORDER**

**Per Padmavathy S, AM:**

This appeal by the assessee is against the order of the Commissioner of Income Tax (Exemptions), Mumbai [in short 'the CIT(E)'] dated 02.08.2024. The issue contended by the assessee in this appeal pertains to the CIT(E) rejecting the application for final registration under section 80G(5) of the Income Tax, 1961 (the Act).

2. The assessee is a registered charitable trust under section 12A of the Act and incorporated on 06.11.2020. The assessee made an application for provisional

registration on 18.11.2022 in Form 10A for registration under section 80G of the Act. The assessee was granted provisional registration under clause (iv) of first proviso to subsection (5) of section 80G of the Act on 30.11.2022 which is valid for the period starting 30.11.2022 up to AY 2025-26. Subsequently, the assessee filed application in Form 10AB for final registration on 23.01.2024 and in the said application has selected the section code under which the approval is sought as sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G of the Act. The CIT(E) rejected the said application stating that

*“1. M/s Rambha Charitable Trust [hereafter 'the applicant' or 'the assessee'] filed application in Form 10AB seeking registration under section 80G(5)(iv)(B) of the Income Tax Act [hereafter the Act']*

*2. Under the relevant section 80G(5)(iv) (B) of the Act, in any other case, where activities of the trust or institution have:*

*“ .....*

*(B) commenced and no income or part thereof the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any previous year ending on or before the date of such application, at any time after the commencement of such activity.”*

*3. On verification of the facts and circumstances of the case, it is found that the trust was incorporated on 06.11.2000. The assessee has old registration u/s 12A & 80G. Further, the assessee has claimed exemption in previous years and filed ITR7.*

*4. As per above mentioned provision of Income Tax Act, the assessee has to file Form 10AB u/s 80G(5)(iv)(B), if the assessee has not claimed exemption in previous year. Since the assessee has claimed exemption in previous years, therefore this application u/s 80G is not allowable. Further, the assessee is not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB. In view of the above this application Form is hereby rejected.*

*5. For statistical purposes, this application is non maintainable and stands rejected.”*

3. The ld. AR submitted that the assessee while filing Form for final registration in Form 10AB has inadvertently mentioned the wrong section as sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G instead of section clause (iii) of first proviso to subsection (5) of section 80G. The ld. AR further submitted that the assessee could not explain the error before the CIT(A) because the notice calling for details mentioned that proceedings under section 14A and that when the staff of the assessee approached the office of the CIT(E) it was advised that no action is required. The ld. AR accordingly submitted that no proper opportunity was given to the assessee before rejecting the application for registration under section 80G. The ld. AR also drew our attention to the relevant provisions of section 80G to submit that the reason as quoted by the CIT(E) for rejecting the application is not applicable to the assessee. Therefore, the ld. AR prayed that a directions may be given to the CIT(E) to grant approval for registration under section 80G to the assessee. The ld AR relied on the decision of the Kolkata Bench of the Tribunal in the case of North Eastern Social Research Centre vs CIT(E) (2024) 165 taxmann.com 12 (Kolkata Trib) in this regard and prayed for a similar direction as held hereunder –

*6. The facts and issues involved in the case in hand being identical to that of the above referred to cases and in view of the findings given by the Coordinate Benches of the Tribunal, the appeal of the assessee is allowed accordingly and the ld. CIT(Exemption) is directed to grant final approval to the assessee under Clause (iii) to First Proviso to section 80G(5) of the Act, if the assessee is otherwise found eligible. It is directed that the ld. CIT(Exemption) will decide the application of the assessee for final approval as expeditiously as possible but not later than two months from the receipt of this order. It is further directed that, if the assessee is granted final approval by the ld. CIT(Exemption) then, the benefit of approval u/s 80G of the Act, if it was available to the assessee prior to the Amendment brought vide Amending Act of 2020, will be deemed to have been continued without any break. The*

*assessee will not be deprived of the benefit during the time period falling between 31/03/2021 and the date of grant of provisional approval under clause (iv) i.e., 28/06/2022, due to technical errors occurred in making the application under the relevant provisions of the Act because of the confusion and misunderstanding on part of the assessee as well as on part of the Id. CIT(Exemption) in properly interpreting the relevant provisions.*

4. The Id. DR on the other hand submitted that the CIT(E) has rejected the application based on the submission made by the assessee in Form 10AB stating that the application is made under section 80G(5)(iv)(B). The Id. DR further submitted that the assessee can be remitted back to the CIT(E) to consider the application afresh based on the claim of the assessee that wrong section has been inadvertently mentioned in the Form 10AB.

5. We heard the parties and perused the material on record. Before we proceed to examine the facts in assessee's case, it is important to first look at the relevant provisions of first proviso to subsection (5) of section 80G which read as under –

*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) where the institution or fund is approved under clause (vi) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;*
- (ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;*
- (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; [or]*
- [(iv) [\*\*\*] where activities of the institution or fund have--*
  - (A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought;*
  - (B) commenced<sup>9</sup> [\*\*\*] at any time after the commencement of such activities:]*

6. The assessee in terms of the above provisions first applied for a provisional approval under sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G within and subsequently (refer clause 2 in Form 10A) and was given the provisional registration up to AY 2025-26 on 30.11.2022. In the application for final approval in Form 10AB, it noticed that the assessee has once again mentioned same section i.e. sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G whereas the correct section code under which the assessee ought to have sought approval is clause (iii) of first proviso to subsection (5) of section 80G. We also noticed that the CIT(E) has treated the application as one filed under sub-clause (B) of clause (iv) of first proviso to subsection (5) of section 80G and accordingly rejected the application for not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB. From the perusal of forms filed and the facts of the case, in our considered view, there is merit in claim of the ld AR that the assessee has selected the wrong section code inadvertently while filing the application for final registration in Form 10AB. Further, we notice that the assessee did not have the opportunity of being heard before CIT(E) due to incorrect course of action advised, and that otherwise the assessee might have explained the facts before the CIT(E) to avoid rejection. In view of these discussions and respectfully following the above decision of the Kolkata Bench in the case of North Eastern Social Research Centre (supra) we remit the issue back to CIT(E) with a direction to grant final approval to the assessee under Clause (iii) to First Proviso to section 80G(5) of the Act, if the assessee is otherwise found eligible. We also direct the CIT(E) to decide the application of the assessee for final approval as quickly as possible before the

expiry of the provisional approval granted in order to enable the assessee to have the benefit of section 80G without any break. It is ordered accordingly.

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

*Order pronounced in the open court on 29-11-2024.*

**Sd/-**  
**(SAKTIJIT DEY)**  
**Vice President**

*\*SK, Sr. PS*

**Sd/-**  
**(PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**