

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1695/PUN/2024
निर्धारण वर्ष / Assessment Year : 2024-25

Harisukh Charitable Trust, Padmavati Galli, Parli Vajjnath Beed, Beed- 413515. PAN : AADAH4903P	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri Sharad A. Shah &
Shri Rohit S. Tapadiya
Revenue by : Shri Amol Khairnar
Date of hearing : 21.11.2024
Date of pronouncement : 17.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 05.08.2024 passed by Ld. CIT, Exemption, Pune rejecting the application for approval u/s 80G of the IT Act.

2. The appellant has raised the following grounds of appeal :-

- "1. The Ld. CIT Exemption erred in rejecting Application for registration u/s 80G(5) of the IT Act.*
- 2. The Ld. CIT (E) ought to have considered the fact that in case his view for rejection of application u/s 80G is accepted then the trust will not be eligible for 80G registration forever.*

3. *The Ld. CIT (E) ought to have considered proposed Amendment to section 80G(5) of the IT Act vide finance bill 2024 & he ought to have considered the said proposed Amendment applicable for the present case & accordingly ought to have granted registration u/s 80G(5) of the IT Act.*
4. *The appellant craves its right to add to or alter the Grounds of Appeal at any time before or during the course of hearing of the case.”*

3. Facts of the case, in brief, are, that the assessee is a trust filed its application for registration in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act on 01.02.2024. With a view to verify the genuineness of the activities of the assessee and fulfilment of conditions laid down in clause (i) to (v) of section 80G(5) of the IT Act, a notice was issued through ITBA portal on 25.04.2024 requesting the assessee to upload certain information/clarification. The desired information was furnished by the assessee as mentioned in the notice. After verifying these details, Ld. CIT, Exemption, Pune found certain discrepancies and asked for their clarification. It was specifically asked by the Ld. CIT, Exemption, Pune that your application is filed under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act but the same is not applicable to your case and, therefore, your present application is liable to be rejected since the activities of the trust were commenced on 28.02.2023 i.e. before

the date of provisional registration, therefore, the said provisions of section 80G(5)(iii)(A) of the IT Act are not applicable to your case, please clarify with supporting documents.

4. In reply to the above query, the assessee filed its reply dated 23.07.2024 and admitted that the trust has already commenced its activities before obtaining provisional registration in Form 10AC under item (A) since the assessee has got no other options to apply first for provisional registration and thereafter to apply for permanent registration.

5. Being unsatisfied with the reply of the assessee trust, Ld. CIT, Exemption, Pune rejected the provisional approval granted on 23.01.2024 under sub-clause (A) of clause (iv) for first proviso to section 80G(5) of the IT Act and cancelled the application filed u/s 80G(5) of the IT Act. It is this order against which the assessee is in appeal before this Tribunal.

6. Ld. AR appearing from the side of the assessee trust submitted before us that under identical facts and similar situation, the Co-ordinate Bench of this Tribunal has already allowed the appeal of the other assessee trust and directed Ld. CIT, Exemption, Pune to consider the application u/s 80G(5) of the IT Act, as filed

within time limit and also directed Ld. CIT, Exemption, Pune to decide the application on merits of the case. In support of this contention, Ld. AR of the assessee trust relied on the decision of the Co-ordinate Bench of this Tribunal in the case of Chopade Charitable Trust vs. CIT passed in ITA No.718/PUN/2024 order dated 18.10.2024. Ld. AR further relied on the order passed by this Jurisdictional Tribunal in the case of T.B. Lulla Charitable Foundation vs. CIT passed in ITA No.1220/PUN/2023 order dated 05.01.2024 wherein under identical facts and similar situation, the appeal of the assessee trust was allowed by the Tribunal. Apart from the above, it is also contended by Ld. AR of the assessee trust that to remove such kind of difficulties faced by various applicants in filing within the due time limit, the CBDT has issued Circular No.7/2024 dated 25.04.2024 wherein time line for filing of such applications was again extended upto 30.06.2024. Alternatively, Ld. AR submitted that in the light of above Circular (supra), the application of the assessee trust may kindly be directed to be treated as filed within the time limit.

7. Ld. DR appearing from the side of the Revenue supported the order passed by Ld. CIT, Exemption, Pune and requested to confirm the same.

8. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that the application u/s 80G(5) was filed belatedly, but at the same time we also find that under identical situation and on similar facts, the Co-ordinate Bench of this Tribunal has already decided the issue in favour of the assessee in other cases. In this regard, we find that the Co-ordinate Bench of the Tribunal in the case of Chopade Charitable Trust (supra) under identical facts and similar situation has allowed the appeal of the assessee by observing as under :-

“4.5 Thus, apparently, as per the Proviso to Section 80G(5) the time limit where assessee has already received Provisional Approval is Six months before the expiry of the provisional approval or within Six months of Commencement of its activities whichever is earlier.

4.6 The Commissioner of Income Tax (Exemption) in the case of the Assessee held that the Activities of the Assessee had commenced in 1986 , hence the assessee was liable to make application for Approval u/s 80G of the Act on or before 30/June /2021 which was extended to 30/9/2022 by various circulars of CBDT. Since assessee made application in Sep 2023, the CIT(E) held it to be time barred.

4.7 However, the CIT(E) had erred in ignoring the most important fact in this case that the Assessee had received valid Provisional Approval and it was valid till AY 2024-25. Therefore, in this case when we read the sub clause (iii) of the Proviso, we have to understand that „within six months of commencement of activities' is applicable only for those newly formed trusts which have received the provisional approval without commencement of activities. If we

interpret it in this way then the sub clause (iii) will be harmoniously interpreted otherwise it will defeat the purpose of the Section itself.

4.8 We derive the same understanding from the Budget Speech of the Hon'ble Finance Minister and Memorandum of Finance Bill 2020.

It was in the Finance Bill 2020 the concept of "Provisional Registration " was introduced. It was in Finance Bill the validity of the registration granted was restricted to five years. As, a result all the existing Trust/Institutions which were already having registration u/s12AA or 80G(5) was asked to re-apply for registration as per the amendment brought in 2020.

Hon'ble Finance Minister in Budget Speech 2020 has said as under :

Quote " In order to simplify the compliance for the new and existing charity institutions, I propose to make the process of registration completely electronic under which a unique registration number (URN) shall be issued to all new and existing charity institutions. Further, to facilitate the registration of the new charity institution which is yet to start their charitable activities, I propose to allow them provisional registration for three years. " Unquote.

Finance Bill 2020

"(vi) an entity making fresh application for approval under clause (23C) of section 10, for registration under section 12AA, for approval under section 80G shall be provisionally approved or registered for three years on the basis of application without detailed enquiry even in the cases where activities of the entity are yet to begin and then it has to apply again for approval or registration which, if granted, shall be valid from the date of such provisional registration. The application of registration subsequent to provisional registration should be at least six months prior to expiry of provisional registration or within six months of start of activities, whichever is earlier"

4.9 Thus, when we read the Budget Speech of Hon'ble Finance Minister 2020 and the Memorandum of Finance Bill 2020 together, it becomes clear that the concept of Provisional registration was mainly to facilitate the registration of newly formed Trust/Institutions which have not yet begun the activities. In continuation of this when we read the „sub clause iii of Proviso' of section 80G(5) , which we have already reproduced above, it is clear that the intention of parliament in putting the word "or within six months of commencement of its activities, whichever is earlier" is in the context of the newly formed Trust/institutions. For the existing Trust/Institution, the time limit for applying for Regular Registration is within six months of expiry of

Provisional registration if they are applying under subclause (iii) of the Proviso to Section 80G(5) of the Act.

4.10 If we agree with the interpretation of the CIT(E), then say a trust which was formed in the year 1986 , performed charitable activities since 1986, but did not applied for registration u/s 80G, the said trust will never be able to apply for registration now. This in our opinion is not the intention of the legislation.

4.11 Even otherwise, the Provisional Approval is upto AY 2024 25, and it can be cancelled by the CIT(E) only on the specific violations by the assessee.

4.12 Therefore, in these facts and circumstances we hold that the Assessee had made the application in form 10AB within the prescribed time limit and hence it is valid application .However, the CIT(E) has not discussed whether the Assessee fulfils all other conditions mentioned in the section as he rejected it on technical ground. Therefore, we direct the CIT(E) to treat the application as filed within statutory time and verify assessee's eligibility as per the Act. The CIT(E) shall grant opportunity to the assessee. Assessee shall be at liberty to file all the necessary documents before the CIT(E).”

9. Respectfully following the decision of the Tribunal in the case of Chopade Charitable Trust (supra), we find force in the arguments of Ld. counsel of the assessee that the application for registration u/s 80G(5) needs to be treated as filed within the time limit. Accordingly, we deem it proper to set-aside the order passed by Ld. CIT, Exemption, Pune in the light of above decisions of the Tribunal (supra) as well as in the light of CBDT Circular (supra) and remand the matter back to him with a direction to treat the application as filed within time and decide the issue of registration u/s 80G(5) afresh as per fact and law after providing reasonable

opportunity of hearing to the assessee. The assessee trust is also hereby directed to respond to the notices issued by Ld. CIT, Exemption, Pune and file the requisite and desired documents in support of his application for registration u/s 80G(5) of the IT Act. Thus, the grounds of appeal raised by the assessee in this appeal are partly allowed.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 17th day of December, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 17th December, 2024.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT, Exemption, Pune.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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