

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'H': NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.2625/DEL/2024  
[Assessment Year 2024-25]**

Weighing Industry Welfare Foundation, D-4, Ashok Vihar, Phase-1, Shastri Nagar, Delhi-110052	Vs	Commissioner of Income Tax (Exemption), Civic Centre, Minto Road, New Delhi-110002
<b>PAN-AADCW0859R</b>		
Assessee		Revenue

Assessee by	Shri Baldev Raj, CA & Shri Maneesh Upneja, CA
Revenue by	Shri Sujit Kumar, CIT-DR

<b>Date of Hearing</b>	<b>04.12.2024</b>
<b>Date of Pronouncement</b>	<b>04.12.2024</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the assessee is directed against the order of Ld. Commissioner of Income Tax (Exemption), Delhi, dated 29.03.2024, pertaining to Assessment Year 2024-25.

2. The grounds of appeal reads as under:-

*"1. That on the facts and in circumstances of the case, the order dt. 29.03.2024 as passed by the Ld. CIT - Exemption, Delhi [hereinafter for the sake of brevity referred to as "The Ld. CIT (E)"] is bad in law and void ab initio.*

*2. That on the facts and in circumstances of the case, The Ld. CIT (E) erred in rejecting the appellant application of approval u/s 80G(5) of the Act.”*

3. Brief facts of the case:- As per the statement of facts filed by the assessee, the assessee is a Company registered under section 8 of the companies Act, 2013 & was formed on 18.10.2021 and was registered u/s 12AB of the Act. It is further stated that the assessee had filed an application for regular approval u/s 80G(5) in form no.10 AB on 28.09.2023 which was rejected by the Ld. CIT (E), Delhi on the ground that application for approval u/s 80G was filed after the limitation period prescribed under section 80G (5) of the Act. It was further submitted that in this regard CBDT had issued a circular no.6 of 2023 dated 24.05.2023 extending the time limit for making application for approval u/s 80G(5) of the Act till 30.09.2023. In this background, it was submitted that the order of the Ld. CIT(E) may be set-aside and restored back to the file of the Id. CIT(E) to decide the assessee's application dated 28.09.2023 afresh in light of the aforesaid CBDT Circular. The relevant extract of the submission made by the assessee in the statement of fact filed by the assessee is reproduced as under:-

*“2. The Appellant has filed application for approval u/s 80G (5) of the Act in Form no 10AB on 28.09.2023 and provisional approval has been granted by the Ld. CIT (E), Delhi on 01.01.2022 in Form No. 10AC URN No AADCW0859RF20222 dt. From 01.01.2022 to AY 2024-2025.*

*3. For regular approval as per section 80G (5) the following time frame provided in Proviso (iii) of first proviso to section 80G(5). The extract of the same is as under:*

*(ii) 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;*

4. The CBDT issued circular No.6 of 2023, dt. 24.05.2023 and extending the time limit granted. The extract of relevant portion of the circular which reads as follows: -

" 5. In order to mitigate genuine hardship in such cases, the Board, in exercise of the power granted under section 119 of the Act, extends the due date of making application in, -

(i) Form No. 10A, in case of an application under clause (i) of the proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of subsection (1) of section 12A or under clause (i) of the first proviso to subsection (5) of section 80G of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date;

(ii) Form No. 10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of subsection (1) of section 12A of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date."

The Appellant has filed the Application for regular approval u/s 80G(5) in form no.10 AB on 28.09.2023 and the Ld. CIT (E), Delhi has rejected the application on the ground that application for approval u/s 80G filed after the limitation period prescribed under section 80G (5) of the Act."

4. On the other hand, the Ld. DR did not have any serious objection to the matter getting it restored back to the file of ld. CIT(E) for fresh adjudication.

5. We have considered the rival submissions and perused the material available on record. On perusal of para-6.4 and 7 of the order dated 29.03.2024 of the Ld. CIT(E), it is noticed that the application was rejected on the ground that Form 10AB under clause (iii) of first proviso to sub-section-5 of section 80G of the Act was not been filed within the time limit prescribed. The relevant paras no.6.4 & 7 of the relevant order of the Ld. CIT(E) are reproduced as below:-

"6.4. From the above, it is evident that the activities of the applicant has commenced prior to FY 2019-20 and the present application filed in Form No. 10AB under Clause (iii) of first proviso to sub-section (5) of section 80G of the Act has not been filed within the time limit prescribed therein and also the assessee has not filed its application within the

*extended time limit provided by CBDT vide its circular No. 12 of 2021 dated 25.06.2021, circular No. 16 of 2021 dated 29.08.2021 and circular No.8 of 2022 dated 31.03.2022. Therefore the above application is liable to be rejected as non maintainable, without going into the merits.*

*7. In view of the facts discussed above and the fact that provisional certificate u/s 10AC has been issued on 01.01.2022 and application in Form 10AB has not been filed within the statutory time limit, the present application filed in Form 10AB under Clause (iii) of first proviso to sub-section (5) of section 80G of the Act is rejected.”*

5.1. On perusal of the above finding of the Id. CIT(E), we note that the Id. CIT(E) rejected the application of the assessee mainly on the ground that the application filed on 28.09.2023 was not filed within time. While rejecting the same, the Ld. CIT(E) did not consider the CBDT Circular No.6 of 2023 dated 24.05.2023, which had extended the time limit for filing such an application on or before 30.09.2023. Therefore, the order of the Ld. CIT(E) rejecting the application dated 28.09.2023 on the ground that it was beyond time cannot be sustained. We, therefore, set-aside the order of the Ld. CIT(E) and direct the Ld. CIT(E) to decide the assessee's application dated 28.09.2023 afresh in light of the aforesaid CBDT Circular and as per law. Ground of appeal is allowed for statistical purposes only.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 4<sup>th</sup> December, 2024.

**Sd/-**  
**[MADHUMITA ROY]**  
**JUDICIAL MEMBER**

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

**Dated** 04.12.2024.

*Shekhar*

Copy forwarded to:

1. Assessee

2. Respondent
3. PCIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi