

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 5723/MUM/2024  
(Assessment Year : 2024-25)**

Salaam Social Medical Services Foundation Flat No. 1205, 12 <sup>th</sup> Floor, Sarkar Tower, 50, Nesbit Road, Mazgaon, Mumbai - 400010	Vs.	Commissioner of Income Tax (Exemption), Mumbai Room No. 601, 6 <sup>th</sup> Floor, Cumballa Hill, MTNL TE Building, Pedder Road, Ld.DR Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai - 400026
<b>PAN/GIR No.ABECS6081M</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri K. Gopal a/w Ms. Neha Paranjpe
Revenue by	Shri Amol Kirtane
<b>Date of Hearing</b>	<b>18/12/2024</b>
<b>Date of Pronouncement</b>	<b>31/12/2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 05/09/2024 passed by Id. CIT (Exemptions) refusing the grant of approval u/s.80G filed under Form 10AD.

2. The Form has been rejected on the following grounds:-

1. *The applicant has filed Form 10AB on 28.03.2024 and requested for approval u/s 80G of the Income-tax Act, 1961 ('the Act'), under clause (iii) of first proviso to sub-section (5) of section 80G of the Act after obtaining provisional approval in Form 10AC.*
2. *The applicant has also obtained provisional registration dtd. 27.05.2021 u/s 12A which was valid for the period AY 2022-23 to 2024-25. However, the assessee did not apply for regularization of the Provisional registration. Instead, the assessee again applied and received provisional registration u/s 12A valid from AY 2024-25 to AY 2026-27. The second provisional registration received by the Assessee is not valid as the assessee should have applied for regularization of 12A registration once it received the provisional registration for the first time on 27.05.2021. Thus, the assessee does not have a valid 12A registration as it has applied for regularization of 80G approval.*
3. *The provision of section 80G(5)(i) of the Act stipulates the condition that the provision of this section is only available for institution or fund for which section 11,12 or clause 23AA or clause 23C of section 10 of the Act applies. The applicant fails to fulfil any of the above criteria in view of the rejection of its application for registration u/s 12AB of the Act. Thus, its application for approval u/s 80G of the act becomes untenable.*
4. *In view of the above, application in Form 10AB for approval u/s 80G of the Act is rejected.”*

3. Before us following chronology of events has been filed:-

Sr. No.	Date	Event
1	18.10.2020	The Assessee company is a Non-Profit Organization which is incorporated as per section 8 of the Companies Act, 2013
2	19.02.2021	After incorporation, the Assessee made an

		application in Form 10A seeking provisional registration as per section 12A(1)(ac)(vi) of the Act.
3	27.05.2021	The above application of the Assessee was accepted and the registration was granted to the Assessee as per section 12A(1)(ac)(vi) of the Act which was valid from A.Y. 2021-22 to A.Y. 2023-24.
4	24.11.2021	Further, the Assessee was also granted provisional registration as per section 80G(5)(iv) of the Act which was valid from 24.11.2021 to A.Y. 2024-25
5	21.03.2024	After obtaining the provisional registration as per section 12A(1)(ac) (vi) of the Act, the Assessee was supposed to make an application in Form 10AB for seeking final registration as per section 12A(1)(ac)(iii) of the Act. However, the Assessee, by mistake made an application in Form 10A instead of Form 10AB for seeking final registration as per section 12A of the Act.
6	29.03.2024	The above application was accepted and registration was granted as per section 12A(1)(ac)(vi) of the Act from A.Y. 2024- 25 to A.Y. 2026-27
7	28.03.2024	Further, while seeking final approval under section 80G of the Act, the Assessee correctly made an application in Form 10AB
8	05.09.2024	The Ld.CIT(E) rejected the above application on the ground that after obtaining provisional registration, the Assessee, instead of applying for regularization of 12A registration, once

		again made application for provisional registration. Hence, the Assessee does not have any valid registration under section 12A of the Act.
9	23.10.2024	The Assessee, after realizing the above mistake, made an application in Form 10AB seeking final registration as per section 12A(1)(a)(iii) of the Act which is pending for adjudication before the Ld.CIT(E)

4. Accordingly, it has been submitted that since assessee had made fresh application in Form 10AB seeking final registration as per 12A (1)(ac)(iii) of the Act which is pending for adjudication before ld. CIT(E), therefore, this matter should be restored back to the file of the ld. CIT(E).

5. Even ld. DR does not have any objection if the matter is restored back to the file of the ld. CIT (E).

6. Looking to the aforesaid facts as narrated before us, it seems that the ld. CIT (E) has rejected the application on the ground that after obtaining the provisional registration assessee instead of applying regularization of 12A registration has made once again application for provisional registration and therefore, once assessee does not have valid registration, 80G cannot be granted. Accordingly, the matter is restored back to the file of the ld. CIT (E), because already correct application form has been filed and matter is subjudice before him for registration u/s 12A(1)(ac)(iii), therefore, this issue of approval u/s. 80G is

restored back to his file and ld. CIT(E) may consider the corrected form and decide the issue in accordance with law after deciding the application for Section 12A.

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

Order pronounced on 31<sup>st</sup> December 2024.

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 31/12/2024  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

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