

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.365/Nag./2023
(Assessment Year : 2021-22)

Earth Focus Foundation
House no.245, Rajlzxmi Marg
Civil Lines, Nagpur 440 001
PAN – AAFCE5947C

..... Appellant

v/s

Commissioner of Income Tax (Exemp.)
Pune

..... Respondent

Assessee by : Shri Rajesh Loya
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 16/12/2024

Date of Order – 08/01/2025

ORDER

PER V. DURGA RAO, J.M.

Aforesaid appeal by the assessee is against the impugned order dated 21/09/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, Pune, [*learned CIT(A)*], for the assessment year 2021-22.

2. In its appeal, the assessee has raised following grounds:-

"1 Ground No. 1 That the order in Form 10AD passed by the learned Commissioner of Income Tax, Exemptions, Pune rejecting regular approval of registration under section 80G(5) of the Income Tax Act, 1961 is bad in law and wrong on facts.

2. Ground No. 2 That the learned CIT erred in law and on facts in rejecting the application for regular approval of registration u/s. 80G, holding that the same is not filed within the time limit allowed under clause (iii) to first proviso of section 80G(5).

On the facts and circumstances of the case-the action of the application is filed within 6 months of commencement of substantial charitable activities.

The contention of Id. CIT is improper and unjustified.

3. Ground No. 3 That the application in Form 10AB for regular approval u/s. 80G was made before expiry of provisional approval granted. On the facts and circumstances of the case the action of the learned CIT is improper and unjustified.

4. Ground No. 4 That the learned CIT erred in law and on facts in rejecting the application for registration due to an alleged technical breach without going into the merits of the case. On facts and circumstances, the activities of the company were genuine, charitable and in accordance with the objects of Memorandum of Association. The action of CIT is against the principles of natural justice and uncalled for.

5. Ground No.5 That the learned CIT, Exemptions erred in law and on facts in holding that CBDT Circular No.6/2023 dated 24-05-2023 extending the due date to 30-9-2023 is not applicable for application made under clause (iii) to first proviso to section 80G(5).

6. Ground No. 6 Without prejudice to Ground Nos. 2, 3, 4 and 5 raised above, the CIT, Exemptions has erred in not condoning the delay in making application u/s. 80G(5)(iii). On the facts and circumstances of the case, it was a case of genuine hardship and there was a reasonable cause for delay in making application and the CIT was bound to take cognizance of same. The action of the learned CIT is improper and unjustified."

7. Ground No. 7 That for any other ground with kind permission of Hon'ble members at the time of hearing of appeal.

3. During the course of hearing, the learned Authorised Representative, appearing for the assessee submitted that he did not wish to press this appeal, to which, the learned Departmental Representative did not raise any objection. Consequently, we treat this appeal as withdrawn.

4. In the result, appeal filed by the assessee is dismissed as withdrawn.

Order pronounced in the open Court on 08/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 08/01/2025

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur