

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR “SMC” BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.582/NAG./2024
[U/sec.80G of the Income Tax Act, 1961]

Madhav Gandhe Foundation, 88-Farmland, RAMDASPETH – 440 010. Maharashtra. PAN AAETM7341Q	vs.	The Income Tax Officer, Ward-1(Exemption), BSNL RTTC Bldg., NAGPUR – 440 006. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Abhay Agrawal, Advocate
For Revenue :	Shri Sandipkumar Salunke, CIT-DR

Date of Hearing :	28.01.2025
Date of Pronouncement :	04.02.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 22.05.2024, of the learned CIT(E), Pune, in rejecting the provisional approval granted u/sec.80G(5) of the Income Tax Act, 1961, [hereinafter in short “the Act”].

2. At the outset, there is a delay of 115 days in filing the appeal before the Tribunal. I am satisfied with the condonation of delay affidavit and petition filed by the assessee and, therefore,

condone the delay of 115 days in filing the appeal before the Tribunal and proceed to decide the appeal on merits.

2. Facts of the case, in brief, are that the assessee is a society engaged in charitable activities i.e., imparting education and is a non-profit making organization. The assessee made an application for approval in Form 10AB under clause (iii) of first proviso to sub-sec.(5) of Sec.80G of the Act. The learned CIT(E), in order to verify the genuineness of the activities of the assessee society, issued notice through ITBA portal on 14.03.2024 requesting the assessee to upload certain information/clarifications, which are the basic details required to ascertain the overall nature of the activities of the assessee society. In response to the said notice, the assessee society submitted certain documents along with the application. The learned CIT(E) noticed various discrepancies and issued another notice dated 02.05.2024. In response to the said notices, the assessee submitted that it had filed Form-10AB for the permanent registration u/sec.12AB(ii) on 26.04.2024 and requested to keep the proceedings u/sec.80G in abeyance till the proceedings u/sec.12AB(iii) are concluded. The learned CIT(E) noted that the application of assessee in Form No.10AB for registration u/sec.12AB filed under the

provisions of sec.12A(1)(ac)(iii) of the Act has been rejected vide order dated 18.04.2024. Therefore, since the conditions of sec.80G(5)(i) are not fulfilled by the assessee society, the learned CIT(E) cancelled the provisional approval granted on 31.08.2021 under clause (iv) for first proviso to sec.80G(5) of the Act.

3. Aggrieved by the order of the learned CIT(E), the assessee society carried the matter in appeal before the Tribunal.

4. During the course of hearing, Learned Counsel for the Assessee submitted that the assessee society was granted registration u/sec.12AB(1) of the Act on 11.10.2024 by the learned CIT(E) and therefore, the assessee society tried to file fresh application u/sec.80G of the Act but the same was denied by the portal. He, accordingly, submitted that since the assessee society granted registration u/sec.12AB(1), the application of the assessee society for approval u/sec.80G(5) may be sent back to the file of learned CIT(E) for afresh adjudication with a direction to provide adequate opportunity of being heard to the assessee to substantiate its case.

5. The Learned DR did not object to the factual position.

6. I have heard the rival submissions of both the parties and perused the material on record. *Prima facie*, I find force in the arguments of the Learned Counsel for the Assessee to the effect that the assessee society had granted registration subsequently on 11.10.2024 u/sec.12AB(1) of the Act. In view of these facts and circumstances, I remit the issue pertains to grant of approval u/sec.80G(5) of the Act back to the file of learned CIT(E) for his afresh adjudication on merits, after providing adequate opportunity of being heard to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open Court on 04.02.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 04th February, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(E), Pune.
4.	The D.R. ITAT, Nagpur SMC-Bench, Nagpur
5.	Guard File.

//By Order//

True Copy

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.