

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No. 5992/Mum/2024  
Assessment Year 2025-26**

Khimji Bhagwandas Charity Trus  Lohana Bhavan Paliram Road, Andheri (W), Mumbai - 400058.  <b>PAN: AAATK 3037 D</b>  (Appellant)	Vs.	CIT (Exemptions)  Cumballa Hill MTNL TE Building, Peddar Road, Mumbai - 400026.    (Respondent)
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**Present for:**

Assessee by : Shri Ajay Singh  
Revenue by : Shri Biswanath Das, CIT/DR

Date of Hearing : 15.01.2025

Date of Pronouncement : 04.02.2025

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

The appeal of the assessee for the assessment year 2018-19 is directed against the order dated 24.09.2024 passed by the Id. Commissioner of Income-tax(Exemption), Mumbai. The assessee has raised the following grounds of appeal:

*"1. In the facts & circumstances of the case and in law, the learned CIT(Exemptions) erred in rejecting the application of the Appellant Trust seeking renewal of approval u/s 80G of the Income Tax Act, 1961 (the Act) without giving adequate opportunity to the Appellant Trust to represent its case.*

*2. The learned CIT (Exemptions) erred in rejecting Appellant Trust's application for renewal of approval u/s 80G of the Act on the ground that the time limit "to decide the application was 30.09.2024". The impugned order passed by the learned CIT (Exemptions) is thus against the principles of natural justice and equity before law.*

3. *The learned CIT (Exemptions) failed to appreciate that the Appellant Trust actually never pursued the objects provided in Clauses C (8) and C (28) respectively to give education assistance to students for study abroad and to establish or maintain/ control educational institutions in any of foreign country and therefore, on that ground, he ought not to have rejected the Appellant Trust's application for renewal of approval u/s 80G of the Act.*

4. *In the facts & circumstances of the case and in law, the learned CIT(Exemptions) ought to have considered that the Appellant Trust having been created (on 18.11.1954) prior to the commencement of the Act is entitled to exemption u/s 11 of the Act even if it is created for the benefit of a particular religion, community or caste as provided in section 13 (1) (b) of the Act.*

5. *The Order passed the learned CIT (Exemptions) against the Appellant Trust which is in existence for more than 70 years now is arbitrary, high-handed, contrary to the facts on record and is, therefore, liable to be set aside forthwith.*

6. *The Appellant Trust craves leave to add, delete, amend and/or vary all or any of the foregoing grounds of appeal on or before the date of hearing of the appeal.”*

2. Fact in brief is that assessee filed an application in Form 10AB u/s 80G(5)(iii) seeking approval u/s 80G of the Act. The Id. CIT(E) rejected the application seeking approval u/s 80G of the Act on the ground that application was not complete and all the documents required to be accompanying the application and the query raised in the show cause notice dated 11.09.2024 was not complied by the assessee.

3. Before us, the Id. Counsel submitted that assessee has uploaded the detailed information along with documents on 10.07.2024 and 08.08.2024 in response to notice issued to the assessee Trust through IT&A Portal. However, subsequent compliance to the show cause notice dated 11.09.2024 could not

be made before the date of passing the impugned order by the Id. CIT(E) on account of non-availability of the Authorized Representative of the assessee, Shri Suryakant Madlani who was diagnosed on Chikungunya on 12.09.2024 during the compliance period of show-cause notice issued on 11.09.2024. The Id. Counsel further submitted that on telephonically these facts were communicated to the AO(E) on 23<sup>rd</sup> and 24<sup>th</sup> September, 2024 and requested for additional time however, the Id. CIT(E) has passed the order on 24.09.2024 by rejecting the application for renewal of approval u/s 80G without providing further opportunity of being heard. The Id. Counsel has also filed copies of medical report and copies of mobile call logs from mobile phone operator as additional evidences under Rule 29 of the IT Rule in support of his submission that assessee could not make compliance to the last show cause notice issued on 11.09.2024 because of inability of the authorized consultant due to serious health ailment.

4. On the other hand Id. Counsel supported the order of lower authority.

5. Heard both the sides and perused the material on record. Without reiterating the fact as discussed above, the Id. CIT(E) has rejected the application of the assessee trust seeking approval u/s 80G of the Act on the ground that no compliance was made to the show cause notice issued on 11.09.2024. After perusal of the material placed on record, it is evident that assessee had uploaded information/clarification on 10.07.2024 thereafter again uploaded details and documents on 08.08.2024 respectively. However, the

assessee could not make compliance to the show cause notice issued subsequently by the Id. CIT(E) on account of serious health ailment of its Authorized Representative as discussed. Looking to the above facts and circumstances, we have admitted the additional evidences being copy of medical report of CA and mobile call logs for adjudicating the case on merit. It is evident from the copy of medical report dated 18.09.2024 that CA of the assessee namely Suryakant Madlani was diagnosed with Chikungunya as a result necessary compliance to the show cause notice issued by the Id. CIT(E) could not be made before the passing of the impugned order by the Id. CIT(E) on 24.09.2024.

Looking to the above facts and circumstances, we consider that there is bona fide reason for not making compliance for a short period between issuing of notice on 11.09.2024 and passing of order on 24.09.2024 because of serious illness of the assessee's Authorized Representative as discussed above in this order. Therefore, in order to adjudicate the case of the assessee on merit, we restore this case of the file of the Id. CIT(E) for deciding de novo after providing adequate opportunity to the assessee.

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

Order pronounced in the open court on 04.02.2025.

**Sd/-**  
**(ANIKESH BANERJEE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 04.02.2025  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai