

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रakesh मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 858/KOL/2024
Assessment Year: 2021 to 2025**

Shree Ram Trust Churu <i>(Appellant)</i>	Vs.	CIT (Exemption), Kolkata <i>(Respondent)</i>
PAN: ABCTS2384N		

Appearances:

Assessee represented by : None.

Department represented by : Arun Kumar Tiwari, CIT DR.

Date of concluding the hearing : February 10th, 2025

Date of pronouncing the order : February 21st, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Exemption)-Kolkata [hereinafter referred to as "the Ld. CIT (Exemption)"] passed in respect of registration u/s 80G of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2021 to 2025 dated 27.02.2024. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. Sr. DR.



2. The assessee is in appeal before the Bench raising the following grounds of appeal:

“1. That the Ld. CIT(E) erred in failing to grant registration only on a mechanical ground that registration application was filed under clause ii of the first proviso to section 80G(5) instead of clause iii even when such inadvertent was already clarified by the assessee in subsequent clarifications.

2. That the appellant craves to add, delete or modify any ground of appeal in the course of the hearing.”

3. In this case the assessee had filed application for registration u/s 80G(5)(ii) of the Act in Form 10AB and was rejected. The order of the Ld. CIT (Exemption) in this regard is as under:

“The assessee has filed an application for registration under section 80G(5)(ii) of the Income Tax Act, 1961 in Form No. 10AB. This application was found to be prima-facie non-maintainable and accordingly vide letter dated 03.01.2024, certain clarifications were sought from the assessee.

On 23.02.2024 the assessee submitted its reply. From the reply of the assessee it is evident that the assessee had selected the wrong section code while applying Form 10AB. Assessee can file afresh Form 10AB selecting the correct section code. Accordingly the application filed by the assessee is treated as non-maintainable and for statistical purpose the application filed by the assessee is treated as ‘rejected’. However, no adverse inference is drawn against the assessee.”

4. It appears that Ld. CIT (Exemption) had rejected the application as the assessee had mentioned the wrong section code while applying on Form No. 10AB and had granted liberty to the assessee to file the application afresh under the correct section code and no adverse inference was drawn against the assessee. The assessee has not availed the opportunity granted by the Ld. CIT (Exemption) and has come up in appeal before the Tribunal.

5. The only ground taken by the assessee is that the Ld. CIT (Exemption) erred in failing to grant registration only on a mechanical



ground that registration application was filed under clause (ii) of the first proviso to section 80G(5) instead of clause (iii) even when such inadvertent was already clarified by the assessee in subsequent clarifications. Before us, neither any copy of the submission filed before the Ld. CIT (Exemption) has been filed nor the facts of the case or statement of fact have been enclosed along with the Form 36 so as to adjudicate the issue. The Ld. CIT (Exemption) had granted liberty to the assessee to file application afresh under the correct clause, hence no cause of grievance apparently arises as no prejudice has been caused to the assessee by following the procedure prescribed for grant of registration by the Ld. CIT (Exemption). The appeal of the assessee is not maintainable because the error occurred on the part of the assessee and liberty was granted to correct the error which opportunity was not availed by the assessee. Hence, on facts as emanating from the record, the appeal is not maintainable and ground no. 1 is dismissed. Ground no. 2 being general in nature does not require any separate adjudication.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 21st February, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 21.02.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Shree Ram Trust Churu, 62/2 Strand Road, Kolkata, West Bengal, 700006.**
2. **CIT (Exemption), Kolkata.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata