

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “G” DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL
MEMBER AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A.No.2481/DEL/2024

Sir Chhotu Ram Educational And Cultural Society , Chhotu Ram Bhawan, Sector 32, Gurgaon, Haryana 122001	Vs.	Commissioner of Income Tax (Exemptions) Chandigarh
TAN/PAN:AAETS6651B		
(Appellant)		(Respondent)

Appellant by:	Shri Vishal Chandra Gupta, Advocate		
Respondent by:	Ms. Jaya Choudhary, CIT(DR)		
Date of hearing:	10	12	2024
Date of pronouncement:	05	03	2024

ORDER

PER PRADIP KUMAR KEDIA-AM:

The captioned appeal has been filed at the instance of the assessee against the order passed by the Commissioner of Income Tax (Exemption), Chandigarh dated 20.03.2024 passed under Section 80G of the Income Tax Act, 1961 (the Act).

2. When the matter was called for hearing, the Id. counsel for the assessee submitted that the assessee moved an application electronically for registration of the Trust under Section 80G(5) of the Act in prescribed Form 10AB read with Rule 11AA of the Income Tax Rules, 1962, vide application dated 28.09.2023.

2.2. The Id. counsel submitted that the application for provisional registration was approved under new regime on 16.04.2024 under clause (iv) of first proviso to sub-section (5) of section 80G for the period commencing from 06.04.2022 and valid up to 31.03.2024. The Trust activities however already commenced long back on 21.05.1993. In terms of the new regime under clause (iii) of first proviso

to sub Section(5) of Section 80G of the Income Tax Act, the application for regular/final approval is required to be made (i) at least six months prior to expiry of the period of provisional approval or (ii) within six months of commencement of activities; whichever is earlier. Thus, as per the conditions stipulated by aforesaid clause (iii) to proviso, the application for final approval ought to have been made within six months of the commencement of activities which in the instant case is 21.05.1993. On this date, the new regime was not in place at all. The compliance of condition of application for approval within 6 months of commencement of activities is beyond comprehension and an impossibility to perform. The application has been made by the by the assessee Trust for final approval within six months prior to expiry of provisional registration. The Id. counsel further contended that analogous situation in the legislative framework has been dealt with by Coordinate benches in favour of the assessee in large number of cases including viz. Indepth Vision Foundation vs.CIT(E) ,ITANo.460/CHD/2023 order dated 09.05.2024; Indian Red Cross Society vs. CIT(E), ITANo.288/CHD/2024 order dated 01.05.2024and Vaidya Mangat Rai Foundation vs.CIT(E), ITANo.2668/Del/2023 order dated18.04.2024.

2.3 The Id. counsel thus urged for setting aside of the rejection order passed by the CIT(E) on technical grounds and restoration of the matter back to the file of the CITE) for adjudicating the application in the light of correct position of law enunciated by the Co-ordinate Benches.

3. We have weighed the rival submissions and perused the material on record. The question that arises for consideration is whether the CIT(E) is justified in denying the approval for regular/permanent registration of the assessee Institution/Fund holding that the application filed by the assessee Institution/Fund in prescribed Form 10AB for the purposes of approval under s. 80G is time barred.

4. Clause (iii) of First Proviso to sub-section(5) of 80G of the Act places embargo of time limit to make application before the competent authority for grant of approval under s. 80G of the Act. The aforesaid clause stipulates that where the assessee Institution or Fund is provisionally approved, the application

for final registration under Form 10AB shall be made by such assessee, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, which is earlier.

5. The CIT(E) has denied final approval under s. 80G to the Assessee on the ground that the application for approval has not been made within six months of commencement of its activities.

6. It is the case of the assessee that the commencement of activities have happened way back in May 1993, when scheme of provisional and final approval was not enacted. The assessee has obtained provisional approval in April 2022 valid up to March 2024 and applied for final approval in September 2023. The strict compliance of time limit in the facts of the case is an utter impossibility since the activities of the assessee commenced much before such law came into force. The assessee thus seeks directions for approval based on harmonious interpretation of such conditions.

7. As contested on behalf of the assessee, the literal interpretation under clause (iii) to proviso to sub section (5) to Section 80G would lead to absurd and anomalous result in the facts of such case. The assessee has invoked 'doctrine of impossibility' in the instant case to meet the limitation assigned for final approval in clause (iii) of First Proviso to S. 80G(5). The doctrine of legitimate expectations in the circumstances was also invoked. We are inclined to agree without any difficulty. It is ostensible that the limitation period provided by the statute stood expired as soon as the new law was enacted. The compliance of stipulations towards time frame for application is ousted at the threshold. It is trite that the law cannot be read in a manner to cast impossible burden on the subject assessee. It is also trite that an assessee cannot be asked to do something which is impossible for him to carry out. In the light of such salutary principles, resort is required to be taken to harmonious interpretation of such stipulations to make the statutory enactment workable.

8. In the backdrop of peculiar facts, we are of the firm view that the application made for the final registration within 6 months prior to expiry of period of provisional registration meets substantial compliance notwithstanding

non compliance of moving an application for approval within 6 months of commencement of activities as thrust upon by the second limb of clause (iii) of the proviso.

9. Consequently, we set aside the impugned order of the CIT(E) denying approval on the grounds of expiry of limitation and direct the CIT(E) to re-examine the application for approval under Section 80G of the Act afresh in accordance with law disregarding the fetters of application to be made within 6 months of commencement of activities, for the purposes of grant of approval.

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

Order pronounced in the open Court on 05/03/2025

Sd/-

**[SATBEER SINGH GODARA]
JUDICIAL MEMBER**

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: 05/03/2025

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Copy forwarded to:

1. *Appellant*
2. *Respondent*
3. *CIT*
4. *CIT(A)*
5. *DR*

Asstt. Registrar, ITAT, New Delhi