

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

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.6378/MUM/2024
(Assessment Year: 2025-2026)**

Maharashtra 3E Education Trust

HDFC Ltd. Ramon House, H. T. Parekh Marg,
169, Backbay Reclamation, Churchgate,
Mumbai – 400020. Maharashtra.
[PAN: AAETM7059H]

..... **Appellant**
Vs

**The Commissioner of Income Tax
(Exemption), 2(1) Mumbai**

6th Floor, MTNL Tel Ex. Building,
Cumballa Hills, Pedder Road,
Mumbai – 400026. Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Nitesh Joshi,
Shri Hitesh Trivedi
For the Respondent/Department : Smt. Sanyogita Nagpal

Date

Conclusion of hearing : 06.02.2025
Pronouncement of order : 27.02.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 19/10/2024, passed by the Commissioner of Income Tax (Exemption), Mumbai [hereinafter referred to as the '**CIT(E)**'] whereby the application filed by the Appellant in Form No.10AB seeking approval under Section 80G of the Income Tax Act, 1961 [hereinafter referred to as '**the Act**'] was rejected.
2. The Assessee has raised following grounds of appeal :
 - "1. *The appellant submits that the learned Commissioner of Income-tax (Exemption)-Mumbai [hereinafter referred to as "CIT(E)] erred in law and on fact in rejecting the application seeking registration under section 80G(5) of the Income tax Act, 1961 ("the Act) without appreciating facts and law of the case properly.*

2. *The appellant submits that the learned CIT(E) failed to appreciate that the clerical error committed in selecting appropriate head in drop down list provided in e-filing portal [i.e. the appropriate clause of first proviso to sub-section (5) of section 80G of the Act] while furnishing Form No.10AB electronically cannot lead to denial of application more particularly on the fact that appellant is fulfilling all the requirements as provided under the Act to become eligible to obtain the approval under section 80G of the Act.*
3. *The appellant submits that the learned CIT(E) ought to have granted approval to the appellant under section 80(G)(5) of the Act.”*
3. During the course of hearing it was submitted by the Learned Authorised Representative for the Assessee-Trust that the Assessee-Trust was set up for carrying on educational activities under its Trust Deed dated October 05, 2016. Vide registration no AAETM7059HE20218 dated 24/09/2021, the Assessee-Trust was granted registration under Section 12A(1)(ac) of the Act. Further, the Assessee-Trust was also granted provisional registration under Clause (iv) of First Proviso to Section 80G(5) of the Act vide Registration No AAETM7059HF2022401, dated 11/01/2022, which is valid for the Assessment Year 2021-2022 to 2024-25. The Assessee-Trust had applied for renewal of registration and filed Form No. 10AB on 24/05/2024. However, the aforesaid application was rejected vide Order dated 19/10/2024 on the ground that the renewal application under Section 80G of the Act was made under wrong Sub-Clause (ii) of First Proviso to Section 80G(5) of the Act [instead of Sub-Clause (iii) of First Proviso to Section 80G(5) of the Act] which was applicable for trust having regular approval for five years and seeking renewal of regular approval. It was submitted that the Assessee-Trust was not put to notice about the defect in the application and the order was passed without giving any opportunity to the Assessee-Trust. The rejecting would result in grave prejudice to the Assessee-Trust engaged in charitable objects of imparting education.

4. In response, the Learned Departmental Representative pointed out that since the Assessee-Trust had itself made application under incorrect provision. Therefore, the CIT(E) was justified in rejecting the application.
5. In rejoinder, the Learned Authorised Representative for the Assessee-Trust submitted that it was on account of inadvertent error in filling the online form that incorrect option was selected from the drop-down options. He submitted that all the documents and details furnished by the Assessee-Trust support the contention of the Assessee that the Application was sought to be made under Sub-Clause (iii) of First Proviso to Section 80G(5) of the Act.
6. We have considered the rival submission and perused the material on record.
7. It is admitted position that the Assessee-Trust was previously granted provisional registration under Section Clause (iv) of First Proviso to Section 80G(5) of the Act. The grievance of the Assessee-Trust is that the application was rejected without taking into consideration the documents and details filed along with the application which would should show that the Application was intended to be made under Sub-Clause (iii) of First Proviso to Section 80G(5) of the Act. The Assessee-Trust was not able to explain before the Learned CIT(E) that an unintentional mistake had occurred while filing the application since the Assessee-Trust was not confronted in this regard. Taking into consideration overall facts and circumstances of the present case we deem it appropriate to grant another opportunity to the Assessee to set out a case for grant of approval in terms of Sub-Clause (iii) of First Proviso to Section 80G(5) of the Act. Accordingly, we set aside the Order, dated 19/10/2024, passed by the Learned CIT(E) and restore the application filed by the Assessee-Trust to its original number. The

Learned CIT(E) is directed to either treat the application filed by the Assessee as application filed under Sub-Clause (iii) of First Proviso to Section 80G(5) of the Act or grant opportunity to the Appellant to file rectified application. It is clarified that the Learned CIT(E) would be at liberty to decide upon the merits of the application as per law after granting the Assessee-Trust an opportunity to make submission and file documents/details in support of the application. The Assessee-Trust is directed to file all documents and details along with rectified application before the Learned CIT(E) forthwith.

8. During the course of hearing it was stated by the Learned Authorised Representative for the Assessee, under instructions, that the Assessee-Trust is a running school which provides education at affordable fee. The Assessee-trust is having deficit for past many years and is in dire need of the funds and donations to meet its routine expenditure for running the educational activities which would become difficult in absence of 80G Certificate issued by the Income Tax Department. In support of the aforesaid averments an affidavit of the trustee was also filed in compliance with the directions issued by the Tribunal. In view of the aforesaid, we deem it appropriate to direct the Learned CIT(E) to adjudicate upon the application/rectified application of the Assessee within a period of four week from the date of this order. The Assessee is directed to place of copy of this order before the Learned CIT(E).
9. In terms of paragraph 7 and 8 above, the appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 27.02.2025.

Sd/-
(Girish Agrawal)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 27.02.2025.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार //(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai