

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH MUMBAI

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No. 5508/MUM/2024

Assessment Year: N.A

&

ITA No. 5509/MUM/2024

Assessment Year: 2024-25

Baseline Foundation Off. No. 110, Silver Turning Point, LB Tata Road, Maneklal Mehta Estate, Plot No. 17/18, Ghatkopar, Mumbai – 400 086 (PAN: AAKCB9146P)	Vs.	Commissioner of Income Tax (Exemption), Mumbai.
(Appellant)		(Respondent)

Present for:

Assessee : Shri K. Gopal, Advocate
and Ms. Neha Paranjpe, Advocate

Revenue : Shri Kailash C. Kanojiya, CIT DR

Date of Hearing : 12.12.2024

Date of Pronouncement : 07.03.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

These two appeals filed by the assessee are against the orders of
Ld. CIT(E), Mumbai vide order no. ITBA/EXM/F/EXM45/2024-
25/1067952439(1) and ITBA/EXM/F/EXM45/2024-

25/1067952472(1), dated 24.08.2024, u/s. 12AB and 80G, respectively of the Income-tax Act (hereinafter referred to as the “Act”).

2. Grounds taken by the assessee are reproduced as under:

ITA No. 5508/MUM/2024

“1. The Commissioner of Income Tax (Exemption) (hereinafter referred to as the CIT(E)) erred passing the order dated 24.08.2024 rejecting the application dated 27.02.2024 filed in Form 10AB seeking registration under section 12AB of the Act without appreciating the facts and circumstances of the case.

2. The CIT(E) failed to appreciate that the objectives of the Appellant company are to carry out the charitable activities and the same do not violate the provisions of section 11 of the Act. Hence, the CIT(E) is not justified in rejecting the application seeking registration under section 12AB of the Act. The order dated 24.08.2024 passed by the CIT(E) is not justified and the same may be set aside.

3. The CIT(E) failed to appreciate that the Appellant has neither received any donation in foreign currency nor incurred any expenses as alleged in the impugned order dated 24.08.2024. Hence, the CIT(E) is not justified in rejecting the application seeking registration under section 12AB of the Act. The order dated 24.08.2024 passed by the CIT(E) is not justified and the same may be set aside.”

ITA No. 5509/MUM/2024

“1. The Commissioner of Income Tax (Exemption) (hereinafter referred to as the CIT(E)) erred in rejecting the application dated 29.02.2024 filed in Form 10AB seeking approval under section 80G of the Act without appreciating the facts and circumstances of the case.

2. The CIT(E) failed to appreciate that the objectives of the Appellant company are to carry on the charitable activities and the same do not violate the provisions of section 11 of the Act. Hence, the CIT(E) is not justified in rejecting the application seeking registration under section 12AB of the Act and the application seeking approval under section 80G of the Act. The order dated 24.08.2024 passed by the CIT(E) is not justified and the same may be set aside.”

3. In both the appeals, the issue is in respect of rejection of application made by the assessee for registration u/s.12 AB and section 80 of the Act respectively.

4. Brief facts of the case are that assessee is a non-profit organisation incorporated on 11.07.2022 u/s. 8 of the Companies Act, 2013. Main objects as contained in Memorandum of Association of the assessee are extracted below which includes promotion of sports also.

1. To develop, Establish, promote, facilitate, promotion, improvement of social, economic and medical relief to the poor and downtrodden and advancement of any other charitable and developmental objects of general public utility and community welfare.

2. Promotion of art, research, social welfare, religion, charity, protection of environment, sports, recreational activities or any such other object.

4.1. Assessee furnished a brief note explaining its mission and activities carried out by it for the purpose of recognising the aspiring athletes and sports persons to give them support for their growth in competitive world of sports. The said brief note is extracted below which describes the selection process adopted by the assessee for the purpose of providing support to the aspiring athlete.

"1. Baseline Foundation is a non-profit organization dedicated to empowering the next generation of athletes. Established in 2023, the Foundation's mission is to create opportunities for young sports enthusiasts and nurture their growth in the competitive world of sports.

2. The Foundation recognizes the challenges that aspiring athletes face, such as a lack of resources, training support, mentoring, and exposure. To address these challenges, Baseline Foundation provides comprehensive support systems aimed at making the athlete's long-term journey a fruitful one.

*3. **Athlete Selection Process:** Baseline Foundation identifies athletes for funding or support through the following methods:*

1. Focus on Underrepresented Sports:

The Foundation prioritizes identifying promising athletes in sports that either receive little to no limelight or lack commercial support. This includes both Olympic and non-Olympic sports.

- A background check of the athlete's discipline and the environment in which they were raised is conducted to ensure the viability of support and to establish a long-term relationship. ?

2. Performance-Based Selection:

- The Foundation identifies young athletes who exhibit significant potential in state and national-level tournaments at junior or sub-junior levels.

- Preference is given to athletes participating in non-mainstream disciplines, excluding cricket.

4. Athletes with a strong track record, especially those excelling beyond their age categories by competing successfully in senior categories, are considered for support.

5. Their discipline, consistency, and nurturing environment are thoroughly assessed to ensure their suitability for long-term support.

6. By selecting athletes through these methods, Baseline Foundation ensures its resources are directed towards individuals who can greatly benefit from the support and have the potential to achieve excellence in their respective fields. This approach aligns with the Foundation's mission to create opportunities and nurture talent in the sports community.

4.2. Assessee filed an application in Form-10AB u/s.12A(1)(ac)(iii) seeking registration u/s.12AB of the Act. Pursuant to this application and submissions made by the assessee, ld. CIT(E) noted that assessee has made several payments in various foreign currencies, namely, Euro, Indonesian Rupiah, etc., for various purchases made outside India, namely, Germany, Indonesia, etc. He summarised the expenditure made outside India by the assessee by tabulating the same in para – 4. He also noted that certain expenditures were incurred outside India by assessee for flight tickets. Based on these details, he took a view that assessee has been continuously applying funds outside India. According to him, proviso to section 11(1)(c) clearly states that under certain conditions, if the income is applied outside India, the Trust or Institution must obtain order of the Central Board of Direct Taxes (CBDT). In view of this, according to him, since assessee did not submit any document to show that it had obtained such order from CBDT for expenses to be made outside India, it has violated the conditions u/s.11 of the Act. Based on this reasoning, application made by the assessee for registration u/s.12A was rejected. We thus, note that the sole basis

for rejecting the application is that assessee is applying its fund outside India which is contrary to the provisions contained in section 11.

5. In appeal before us, ld. Counsel for the assessee reiterated the details of activities carried by it and the process adopted for supporting sports persons both, at national and international arena. He strongly submitted that the sports persons participate in various competitions and tournaments outside India and incur expenses for their travel, participation, stay, sports equipment, training and various other allied expenses. As an act towards their support, these expenses are reimbursed to them on production of their expense reports and supporting documentary evidences. The details furnished by them indicate that these expenses have been incurred outside India but fact of the matter is that these are reimbursed to these sports persons in India. Further, expenses incurred for their hotel and stay arrangements which are paid to the agencies through which such bookings are done are also in India. According to the ld. Counsel, ld. CIT(E) has misconstrued the details of expenses from the descriptions given against those expenses that they had been incurred outside India by the assessee and thus rejected the application. Details of these expenses are furnished by the assessee in the paper book placed on record to demonstrate the contentions so made.

6. We have perused the records and order of the authorities below. We find that submissions made by the assessee to explain the nature of the activities undertaken by it for the purpose of seeking registration u/s.12AB and 80G of the Act have been misconstrued in terms of being in violation of provisions of section 11. Having gone through the material placed on record, we find it appropriate to remit the matter

back to the file of Id. CIT(E) to revisit the explanations and documentary evidences furnished by the assessee on the aspect of funds being applied outside India as explained by the Id. Counsel before us. Needless to say, assessee be given reasonable opportunity of being heard and to make any further submissions, if so desired. Accordingly, grounds taken by the assessee are allowed for statistical purposes.

7. In the result, both the appeals of the assessee are allowed for statistical purposes. It may be noted that appeal in ITA No.5509/Mum/2024 is towards rejection of application of registration u/s.80G which has a consequential effect from the outcome of registration application u/s.12AB of the Act and hence both the appeals are allowed for statistical purposes.

Order is pronounced in the open court on 07 March, 2025

Sd/-

(Saktijit Dey)
Vice President

Sd/-

(Girish Agrawal)
Accountant Member

Dated: 07 March, 2025

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai