

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.29/Nag./2025**  
(Assessment Year : N.A.)

Ramratan Sarda Medical Help Society  
Ayodhya, 119, Bajaj Nagar  
Nagpur 440 010 PAN – AACAR5260J

..... Appellant

v/s

Commissioner of Income Tax  
Exemption, Pune

..... Respondent

Assessee by : Shri Naresh Jakhotia  
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 04/03/2025

Date of Order – 21/03/2025

**ORDER**

**PER K.M. ROY, A.M.**

The instant appeal by the assessee is emanating from the impugned order dated 12/12/2024, passed by the learned Commissioner of Income Tax (Exemption), Pune, , [*learned CIT(E)*], in Form no.10AD, rejecting the application filed by the assessee in Form no.10AB(iii) of sub-section (5) of section 80G of the Income Tax Act, 1961 (*"the Act"*).

2. The rejection was done by the learned CIT(E) vide impugned order dated 12/12/2024. As could be seen from the facts available on record, the learned CIT(E) issued several statutory notice dated 30/07/2024, in response to which the assessee filed its reply/ submissions dated 13-14/08/2024. and the assessee has very promptly complied with the said notices. The learned CIT(E), for the reasons known to him, has not considered the contents of the

submissions/ reply filed by the assessee on 13-14/08/2024 and contrary to this the learned CIT(A) held that the assessee has not furnished explanation to the notice. As stated by the assessee, the learned CIT(E) has not communicated any discrepancies to the assessee. The findings of the learned CIT(E) rejecting the application for registration under section 80G of the Act are reproduced below:-

*"5. The assessee was requested to show cause as to why the application should not be rejected and why the approval granted under section 80G(5) of the Income Tax Act, 1961 should not be cancelled. The assessee was also given opportunity of being heard vide the said notice. The assessee was specifically informed that in the event of failure to comply by the due date, the application shall be liable to be rejected and the approval shall also be liable to be cancelled. The compliance to the said notice was due on 26/11/2024. The notice was duly served on the assessee through e-portal and email. However, the assessee neither submitted explanation to the show cause notice till date nor availed the opportunity of being heard.*

*6. The assessee responded to the said notice on 06/12/2024 and requested for an adjournment. However, due to time limitation the assessee's request for adjournment was cancelled vide this office.*

*Further, the assessee was requested to furnish compliance till date 09/12/2024. However, the assessee did not comply to the said notice.*

*7. Since, the assessee has not furnished any explanation to the discrepancies communicated to it, it is presumed that the assessee has nothing to say in the matter.*

*8. Considering the above facts discussed in the show notice and discrepancies noticed and also that the assessee has not complied with the provisions of sub-clause (a) of clause (ii) of second proviso to section 80G(5) of the Income Tax Act, 1961 as well as the provisions of Rule 11AA(2) of Income Tax Rules, 1962 in spite giving sufficient opportunities, the undersigned is unable to draw any satisfactory conclusion about the genuineness of activities of the assessee and fulfilment of conditions laid down in clause (i) to (v) of section 80G(5) of the Act.*

*9. As per the condition vide clause (i) of section 80G(5) of the Income Tax Act, 1961, the approval is available only if the income of the institution or fund is not be liable to inclusion in its total income under the provisions of section 11 and 12 or clause (23AA) / clause (23C) of section 10 of the Income Tax Act, 1961. Exclusions for the said condition are detailed in clause (a), (b) and (c) of proviso to clause (i) of section 80G(5) of the Act. Therefore, the institution / fund is required to be regularly registered / approved either under section 12AB or 10(23AA) or 10(23C) of the Income Tax Act, 1961 or the*

*institution / fund shall be a Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependents.*

*10. In the instant case it is noticed that the assessee is neither regularly registered u/s 12AB read with section 12A(1)(ac) (i) /12A(1)(ac)(iii) nor having regular approval under section 10(23C) read with clause (i) / (iii) of first proviso to the said section and the case is not covered under the exclusions provided vide proviso to clause (i) of section 80G(5) of the Act. The assessee is not approved under section 10(23AA) of the Act. The assessee is also not a Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependents. Therefore, the condition (i) of section 80G(5) of the Income Tax Act, 1961 is also not fulfilled in this case.*

*11. In view of the above, the application filed by the assessee is hereby rejected and the provisional approval granted on 19/11/2021 under clause (iv) for first proviso to section 80G(5) of the Income Tax Act, 1961 is hereby cancelled.”*

3. In view of the overwhelming evidences on record it is amply demonstrated that the course of action by the learned CIT(E) is fallible and hence the same cannot be countenanced. Accordingly, the matter is hereby restored to the file of the learned CIT(A) by setting aside the impugned order passed by the learned CIT(E) and direct him to re-adjudicate the issues raised by the assessee by considering the contents of the reply/ submissions filed by the assessee and then decide the issues in accordance with law after providing reasonable opportunity of being heard to the assessee, if so desired by him.

4. In the result, assessee's appeal stands allowed for statistical purposes.

Order pronounced in the open Court on 21/03/2025

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 21/03/2025**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur