

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

**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.459/MUM/2025
(Assessment Year: 2024-2025)
&
ITA No.460/MUM/2025
(Assessment Year: 2024-2025)**

S3 Impact Foundation

Plot No. 133/134, 1st Floor, Chandramani Appartment,
Opp. Saraswat Bank Matunga Central,
Mumbai - 400019. Maharashtra.
[PAN:ABITS1043E]

..... **Appellant**

Vs

Commissioner of Income Tax (Exemptions), Mumbai

Room No. 601, 6th Floor, Cumbulla Hill,
MTNL Te Building, Pedder Road,
Dr Gopalrao Deshmukh Marg, Cumballa Hill,
Mumbai-400026. Maharashtra

..... **Respondent**

Appearance

For the Appellant/Assessee : Ms. Ruby Srivastava
Sh. Rohan Singh
For the Respondent/Department : Shri Bhangapatil Pushkaraj Ramesh

Date

Conclusion of hearing : 27.03.2025
Pronouncement of order : 28.03.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. These are two appeal preferred by the same Assessee-Trust directed against two separate order passed by the Learned Commission of Income Tax, (Exemptions), Mumbai. Since the appeals arise from common factual matrix the same were heard together and are being disposed off by way of common factual matrix.

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2. We would first take up appeal preferred by the Assessee is

directed against the order, dated 27/11/2024, passed by the Commission of Income Tax, (Exemptions), Mumbai [hereinafter referred to as 'the **CIT(E)**'] whereby the application filed by the Assessee under Section 12A(1)(ac)(iii) of the Tax Act, 1961 [hereinafter referred to as 'the **Act**'] seeking registration under Section 12AB of the Act.

3. The Assessee has raised following ground of appeal:

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(E) erred in rejecting application filed for 12A exemption."

4. On perusal of the impugned order, we find that that application filed by the Assessee seeking registration under Section 12AB of the Act was rejected by the CIT(E) on the ground that no response was received from the Applicant and the Applicant failed to establish that the objective of the Assessee-Trust were not in violation of provisions contained in Section 11 of the Act. The Learned Authorized Representative for the Assessee appearing before us submitted that proper documents/submission could not be submitted before the Learned CIT(E) on account of failure of the tax professional pursuing in the matter to file reply/submission). Therefore, another opportunity was sought to make out the case for registration/approval.

5. Per contra, Learned Departmental Representative submitted that there was no infirmity in the order passed by the CIT(E) since the Assessee had failed to file proper response.

6. Having considered the rival submission and on perusal of material on record we find the factual averments made by the Learned Authorized Representative for the Assessee be correct. The application filed by the Assessee was rejected for failure to

file proper/response to satisfy the issues raised by the CIT(E) regarding objects of the Assessee-trust and on account of non-filing of the submission/documents. The Learned Authorised Representative had explained the reasons for the aforesaid defaults as inadvertent omission by the concerned tax professional. Keeping in view of the overall facts and circumstances of the present case and in the interest of justice we deemed it appropriate to grant the Assessee-trust another opportunity to make out the case for grant of approval/registration under Section 12A(1)(ac)(iii) of the Act. Accordingly, we set aside order, dated 27/11/2024, passed by the CIT(E) with the directions to decide the application filed by the Assessee in Form 10AB under Section 12A(1)(ac)(iii) of the Act afresh as per law. The Assessee is directed to file submissions before the Learned CIT(E) along with explanation regarding objects of the Assessee-Trust and support the same with documents (including modified trust deed, if any). The Learned CIT(E) is directed to take into consideration the response/submission/documents filed by the Assessee and adjudicate the application afresh after granting the Assessee a reasonable opportunity of being heard. In terms of the aforesaid Ground No. 1 raised by the Assessee are treated as allowed for statistical purposes.

7. In result, in terms of paragraph 5 above, the appeal preferred by the Assessee is allowed for statistical purposes.

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8. Next we would take up appeal preferred by the Assessee against the order, dated 27/11/2024, passed by the CIT(E) whereby the application filed by the Assessee for approval under Section 80G of the Act under was rejected.

9. The Assessee has raised following ground of appeal:

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(E) erred in rejecting application filed for 80G exemption."

10. We note that the Learned CIT(E) has rejected the application under consideration seeking approval under Section 80G of the Act holding as under:

"3. The Provision of Section 80G(5)(i) of the Act stipulates the condition that the provision of this Section is only available for institution or fund for which Section 11, 12 or Clause 23AA or Clause 23C of Section 10 of the Act applies. The applicant fails to fulfil any of the above criteria in view of the rejection of its application for registration u/s.12AB of the Act. Thus, its application for approval u/s.80G of the act becomes untenable.

4. In view of the above, application in Form 10AB for approval under Section.80G of the Act is rejected"

11. Since we have set aside the order, dated 27/11/2024, whereby the application filed by the Assessee-Trust under Section 12AB of the Act was rejected by the Learned CIT(E), we deem it appropriate and in the interest of justice to set aside impugned order, dated 27/11/2024, with the directions to the Learned CIT(E) to decide the application under consideration filed for seeking approval under Section 80G of the Act afresh after taking into account the order passed by the Learned CIT(E) disposing off the application filed by the Assessee in Form No.10AB under Section 12A(1)(ac)(iii) of the Act as per our directions in paragraph 6 above. In terms of the aforesaid Ground No. 1 raised by the Assessee are treated as allowed for statistical purposes.

12. In result, in terms of paragraph 11 above, the appeal preferred by the Assessee is allowed for statistical purposes.

13. In conclusion, both the appeal preferred by the Assessee for the Assessment Year 2024-2025 [ITA No.459/Mum/2025 & ITA No.460/Mum/2025] are allowed for statistical purposes.

Order pronounced on 28.03.2025.

Sd/-
(Vikram Singh Yadav)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :28.03.2025
Milan, LDC

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त/ The CIT
4. प्रधान आयकर आयुक्त/ Pr.CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापितप्रति //True Copy//

उप/सहायकपंजीकार / (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai