आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट ।
IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER AND SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.175/RJT/2024

Shri Shardagram Alumni Education and Charitable Trust, M.N. Manvar & Co., Chartered Accountants, 504, Star Plaza, Nr. Circuit House, Phulchhab Chowk, Rajkot-360 001	बनाम Vs.	The Commissioner of Income-tax (Exemption), Ahmedabad.
PAN/GIR No. **ABDTS 1286 Q**		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri M.N. Manvar, AR
राजस्व की ओर से/Revenue by : Shri Sanjay Punglia, CIT DR
सुनवाई की तारीख/**Date of Hearing : 20/01/2025**
घोषणा की तारीख/**Date of Pronouncement : 28/03/2025**

आदेश/**Order**

Per Dr. Arjun Lal Saini, A.M

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income-tax(Exemption), Ahmedabad [in short, 'CIT(E)'], vide order dated 28.02.2024, *wherein*, Ld.CIT(E) has denied the approval under section 80G(5) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') and application filed by

the assessee-trust in Form No.10AB, u/s 80G(5) of the Act was rejected by Ld.CIT(E), as non-maintainable.

2. Brief facts qua the issue are that assessee has filed Form 10AB, u/s 80G(5) of the Act on 29/09/2023. The date of registration/incorporation in this case is 02/11/2021 as per Form No. 10AB. The assessee had been granted order for provisional approval in Form No. 10AC issued on 10/03/2022, under Clause (iv) of first proviso to sub-section (5) of section 80G for the period commencing from 10/03/2022 to AY 2024-25. The ld. CIT(E) noted that the date of commencement of activities in this case is 02/11/2021. The assessee was required to file application in Form 10AB in this case on or before 30/09/2022, which he has failed to submit. Therefore, the present application in Form No.10AB, u/s 80G(5) of the Act has not been filed within the time limit prescribed therein and therefore, the same is liable to be rejected, as such, as non -maintainable. Therefore, the assessee`s application in Form No.10AB, u/s 80G(5) of the Act, is rejected as non- maintainable, without going into the merits and also provisional approval granted in Form No. 10AC, under clause (iv) of first proviso to sub-section (5) of section 80G is hereby cancelled.

3. Aggrieved by the order of Ld.CIT(E), assessee is in appeal before us.

4. The Ld. Counsel for the assessee submitted that there was delay in filing Form-10AB, u/s 80G(5) of the Act, therefore, Ld.CIT(E) has denied the approval u/s 80G(5) of the Act. The Ld. Counsel also submitted that

registration of the assessee- trust is effective, therefore, the assessee-trust is eligible to get approval u/s 80G(5) of the Act. The assessee-trust has also not availed the benefit of latest Circular No.7/2024, dated 25.04.2024, wherein, the time limit for filing application was extended by the CBDT, for approval u/s 80G(5) of the Act. The Ld. Counsel for the assessee prayed before the Bench that Tribunal has power to condone the delay, therefore, delay may be condoned and matter may be remitted back to the file of Ld.CIT(E) with a direction to grant approval u/s 80G(5) of the Act.

5. On the other hand, Ld.CIT-DR for the Revenue relied on the findings of Ld.CIT(E).

6. We have heard both the parties and perused the materials available on record. We note that there was delay in filing Form-10AB, u/s 80G(5) of the Act and such delay was not intentional nor deliberated on the part of assessee-trust. Therefore, the delay should be condoned in the interest of justice, and for that we rely on the judgment of Co-ordinate Bench of ITAT Surat, in the case of Vananchal Kelavani Trust, in ITA No.728/SRT/2023 dated 09.01.2023, wherein delay has been condoned in filing application under clause-(iii) of 3rd proviso to sub-section-5 of Section 80G of the Act. The findings of the Co-ordinate Bench in the case of Vananchal Kelavani Trust (supra), are reproduced below:

> "***13***. *We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position. We note that in the latest Circular No.6/2023 dated 24.05.2023, the date was not extended by the CBDT, so far as, filing of Form No. 10AB, u/s 80G(5)(iii) of the Income Tax Act, 1961, is concerned.*

***14**. We note that the extended period, as per Circular No.8/2022, as extended period declared by the Central Board of Direct Taxes (CBDT) is, on or before 30.09.2022, which has also expired, in the assessee`s case under consideration. However, after this Circular No.8/2022, the CBDT has issued another Circular No.6/2023 dated 24.05.2023 wherein in para-5, the CBDT has instructed as follows:*

"5. In order to mitigate genuine hardship in such cases, the Board, in the exercise of the power under section 119 of the Act, extends the due date of making an application in,-

(i) Form No.10A, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date;

(ii) Form No.10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 122A of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date.

***15**. However, in earlier Circular 8/2022, which was issued on 31.03.2022 the CBDT has given instruction about approval 80G(5) of the Act, which is reproduced below:*

"1. On consideration of difficulties in electronic filing of form No.10AB as stipulated in Rule 2C or 11AA or 17A of the Income-Tax Rules, 1962 w.e.f. 01.04.2021, the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119(1) of the Act, extends the due date for electronic filing of such Form as under:

(i) The application for registration or approval under Section 10(23C), 12A or 80G of the Act in form No.10AB, for which the last date for filing falls on or before 29th September, 2022, may be filed on or before 30th September, 2022."

***16**. Thus, in the Circular No.8/2022 dated 31.03.2022, cited above, there is mention about Section 80G of the Act (in form No. 10AB) for registration or approval and extended date is mentioned as 30.09.2022. However, in the latest Circular No.6/2023 dated 24.05.2023, the CBDT did not clarify or did not mention about the extension of the time limit for Section 80G (5) of the Act, (in form No. 10AB). Therefore in the situation, it is difficult to interpret clause (iii) the 3rd proviso of Section 80G(5) of the Act, which states as follows:*

"where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier."

Therefore, it is undue hardship to the assessee, as the CBDT, in the latest Circular No.6/2023 dated 24.05.2023, about application for registration or approval under Section 80G, in form No. 10AB, did not mention the extended period. Thus, we find merit in the submission of ld Counsel to the effect that assessee is an old trust, which had registered on 29.11.2001 and commenced its activities from 2001, therefore, it is impossible to file the application u/s 80G(5) (iii) of the Act, "within six months of commencement of its activities' as stated in above clause (iii) of 3rd proviso of section 80G(5) of the Act. Besides, as per circular No.8/2022 of CBDT dated 31.03.2022, the extended time is up to 30.09.2022, however, the assessee filed Form No.10AB, u/s 80G(5) (iii) on 24.02.2023, therefore, application filed by the assessee before the ld CIT(E) is delayed by 147 days (approx.), and hence ld CIT(E) rejected application of assessee in Form No.10AB, u/s 80G(5) (iii) of the Act, as not maintainable and also cancelled the provisional approval granted in Form No.10AC, under clause (iv) of first proviso to sub-section (5) of section 80 G of the Act.

***17**. Therefore, in this ambiguity situation in circular No.8/2022 of CBDT dated 31.03.2022 and latest Circular No.6/2023 dated 24.05.2023, of the CBDT, we do not have any option but to condone the delay in filing application in Form No.10AB, u/s 80G(5) of the Act. We note that Co-ordinate Bench of Jodhpur in the case of Bhamashah Sundarlal Daga*

Charitable Trust vs. CIT(Exemption) in ITA No.278/JODH/2023 dated 10.11.2023 dealt with the issue of clause-(iii) 3rd proviso u/s 80G(5) of the Act stating that "whichever is earlier" is applicable only to the newly constructed trust. The findings of the Co-ordinate Bench in the case of Bhamashah Sundarlal Daga Charitable Trust (supra) is reproduced below:

10.1 In this background, we need to read the sub-clause (iii) of the Proviso to Section 80G(5) of the Act. For ready reference it is again reproduced here under :

> *" (iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier"*

10.2 The sub-clause says that the Institution which have provisional registration have to apply at-least six months prior to expiry of the provisional registration or within Six months of commencement of activities, whichever is earlier.

10.3 In continuation of this when we read the 'sub clause iii of Proviso' of section 80G(5), which we have already reproduced above, it is clear that the intention of parliament in putting the word "or within six months of commencement of its activities, whichever is earlier" is in the context of the newly formed Trust/institutions. For the existing Trust/Institution, the time limit for applying for Regular Registration is within six months of expiry of Provisional registration if they are applying under sub clause (iii) of the Proviso to Section 80G(5) of the Act. This will be the harmonious interpretation.

11. If we agree with the interpretation of the ld.CIT(E), then say a trust which was formed in the year 2000, performed charitable activities since 2000, but did not applied for registration u/s.80G, the said trust will never be able to apply for registration now. This in our opinion is not the intention of the legislation. This interpretation leads to absurd situation.

11.1 In this context, we will like to refer to observations of the Hon'ble Supreme Court in the case of K P Varghase(supra), where in Hon'ble SC observed as under :

Quote, "It is a well-recognised rule of construction that a statutory provision must be so construed, if possible, that absurdity and mischief may be avoided. There are many situations where the construction suggested on behalf of the revenue would lead to a wholly unreasonable result which could never have been intended by the Legislature. Take, for example, a case where A agrees to sell his property to B for a certain price and before the sale is completed pursuant to the agreement and it is quite well known that sometimes the completion of the sale may take place even a couple of years after the date of the agreement - the market price shoots up with the result that the market price prevailing on the date of the sale exceeds the agreed price at which the property is sold by more than 15 per cent of such agreed price. This is not at all an uncommon case in an economy of rising prices and in fact we would find in a large number of cases where the sale is completed more than a year or two after the date of the agreement that the market price prevailing on the date of the sale is very much more than the price at which the property is sold under the agreement. Can it be contended with any degree of fairness and justice that in such cases, where there is clearly no understatement of consideration in respect of the transfer and the transaction is perfectly honest and bona fide and, in fact, in fulfilment of a contractual obligation, the assessee who has sold the property should be liable to pay tax on capital gains which have not accrued or arisen to him. It would indeed be most harsh and inequitable to tax the assessee on income which has neither arisen to him nor is received by him, merely because he has carried out the contractual obligation undertaken by him. It is difficult to conceive of any rational reason why the Legislature should have thought it fit to impose liability to tax on an assessee who is bound by law to carry out his contractual obligation to sell the property at the agreed price and honestly carries out such contractual obligation. It would indeed be strange if obedience to the law should attract the levy of tax on income which has neither arisen to the assessee nor has been received by him. If we may take another illustration, let us consider a case where A sells his property to B with a stipulation that after sometime, which may be a couple of years or more, he shall resell the property to A for the same price. Could it be contended in such a case that when B transfers the property to A for the same price at which he originally

*purchased it, he should be liable to pay tax on the basis as if he has received the market value of the property as on the date of resale, if, in the mean-while, the market price has shot up and exceeds the agreed price by more than 15 per cent. Many other similar situations can be contemplated where it would be absurd and unreasonable to apply section 52(2) according to its strict literal construction. We must, therefore, eschew literalness in the interpretation of section 52(2) and try to arrive at an interpretation which avoids this absurdity and mischief and makes the provision rational and sensible, unless of course, our hands are tied and we cannot find any escape from the tyranny of the literal interpretation. It is now a well-settled rule of construction that where the plain literal interpretation of a statutory provision produces a manifestly absurd and unjust result which could never have been intended by the Legislature, the Court may modify the language used by the Legislature or even 'do some violence" to it, so as to achieve the obvious intention of the Legislature and produce a rational construction -" **Unquote**.*

11.2 Thus, as observed by Hon'ble Supreme Court, that the statutory provision shall be interpreted in such a way to avoid absurdity. In this case to avoid the absurdity as discussed by us in earlier paragraph, we are of the opinion that the words, "within six months of commencement of its activities" has to be interpreted that it applies for those trusts/institutions which have not started charitable activities at the time of obtaining Provisional registration, and not for those trust/institutions which have already started charitable activities before obtaining Provisional Registration. We derive the strength from the Speech of Hon'ble Finance Minister and the Memorandum of Finance Bill 2020.

11.3 Therefore, in these facts and circumstances of the case, we hold that the Assessee Trust had applied for registration within the time allowed under the Act. Hence, the application of the assessee is valid and maintainable.

12. Even otherwise, the Provisional Approval is uptoA.Y.2025-26, and it can be cancelled by the ld.CIT(E) only on the specific violations by the assessee. However, in this case the ld.CIT(E) has not mentioned about any violation by the Assessee. Therefore, even on this ground the rejection is not sustainable.

13. However, the ld.CIT(E) has not discussed whether the Assessee fulfils all other conditions mentioned in the section as he rejected it on technical ground. Therefore, in these facts and circumstances we hold that the Assessee had made the application in form 10AB within the prescribed time limit and hence it is valid application. Therefore, we direct the ld.CIT(E) to treat the application as filed within statutory time and verify assessee's eligibility as per the Act. The ld.CIT(E) shall grant opportunity to the assessee. Assessee shall be at liberty to file all the necessary documents before the ld.CIT(E).

14. Accordingly, the appeal of the assessee is allowed for statistical purpose. Since we have set aside to Ld.CIT(E), we do not intend to adjudicate each ground separately."

***18.** We note that the Co-ordinate Bench of ITAT Jodhpur in the case of Bhamashah Sundarlal Daga Charitable Trust (supra) dealt with only the issue/terminology of "**whichever is earlier**" which is applicable to new trust which have created recently, and it does not deal with condonation of delay in case of old trust who made the application before ld CIT(E) very late, that is, the issue mention in clause (iii) of 3rd proviso of section 80(5), "where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval.." has not been adjudicated.*

***19**. Now the next question before us is that whether Tribunal has power to condone the delay in filing the Form No.10AB, u/s 80G(5) of the Act. The Tribunal is a final fact finding authority, and based on the assessee`s facts and undue hardship created by the clause (iii) of 3rd proviso of section 80(5) of the Act, the Tribunal may condone the delay in filing the Form No.10AB, u/s 80G(5) of the Act. Therefore, we are of the view that delay in filing the Form No.10AB, u/s 80G(5) should be condoned in the interest of justice. For that we rely on the judgment of Hon'ble Delhi High Court in the case of DCIT(Exemption) vs. Vishwa Jagriti Mission [2013] 30 taxmann.com 41 (Delhi)/[2013] 213 Taxman 65 (Delhi), wherein the Hon'ble Delhi High Court held as follows:*

> ***"18.** The main question that falls for our consideration is whether the Tribunal was justified in condoning the delay in the filing of the application for registration under section 12A of the Act and whether the view taken by the Tribunal is perverse. The question whether there was sufficient cause for the delay is always a question of*

fact as has been held by two Division Bench judgments of this Court: (i) CIT v. Parma Nand [2004] 266 ITR 255/135 Taxman 100 (Delhi) and (ii) CIT v. ITOCHU Corpn. [2004] 268 ITR 172/139 Taxman 348 (Delhi). The Tribunal has, in an elaborate order in which all the facts and the rival submissions have been taken into consideration, held that there was sufficient cause for the delay on the part of the assessee-society in making the applications for registration under section 12A and 80G of the Act. It is not necessary, nor is it proper, for us to decide the culpability or otherwise of A.K. Sikri who was the Treasurer of the assessee-society. All that we need to examine is whether the Tribunal had valid materials before it on the basis of which it could have reasonably come to the conclusion that the assessee-society was prevented by sufficient cause in applying for the registration in time. It is manifest from a fair reading of the order of the Tribunal that it had weighed the circumstances in which the assessee-society was placed and the action it took immediately on receipt of the complaint from M.P. Mansinghka Trust of Mumbai; it has referred to the confession of Sikri in the meeting of the governing body owning up responsibility for having misled the assessee-society by representing that the necessary application for registration were made in time; it has also referred to the action taken by the assessee-society against Sikri when it found that Sikri was not taking adequate steps to remedy the situation; it has also referred to the police complaints filed not only by the assessee-society against Sikri, but also to the complaint filed by the income tax authorities against Sikri which indicated that they also viewed Sikri to be responsible for the mis-representation, fake certificates of registration, etc. Moreover, the Tribunal has taken note of the fact that the Metropolitan Magistrate, acting on the police complaint, remanded Sikri to custody and also referred to the fact that in the bail application, Sikri had again owned up responsibility for the fake certificates of registration. Taking an overall view of the facts and going by the preponderance of probabilities, the Tribunal came to hold the view that it was because of the irregularities, illegalities and mis-representations of Sikri that the assessee-society was led to believe that appropriate applications under the Act were already filed with the income tax authorities for registration. The assessee-society was thus under the belief, though mistaken but honest, that there was no delay and once it came to know on 06.12.2005 about the irregularities on a complaint from M.P. Mansinghka Trust of Mumbai and on further enquiry conducted on 14.12.2005 by the governing body, it hastened to take remedial action by filing applications for registration both under section 12A and 80G of the Act, which were followed up by another set of applications filed directly with the DIT (Exemptions) on 21.12.2005; these applications were obviously delayed and the condonation application was filed on 14.03.2006 narrating the events that led to the delay.

***19.** In the above circumstances, it seems to us that the Tribunal has acted judicially, taking note of all the facts and circumstances including probabilities of the case. In Esthuri Aswathiah v. CIT [1967] 66 ITR 478 (SC), the Supreme Court outlined the duties of the Tribunal in the following words: -*

"The function of the Tribunal in hearing an appeal is purely judicial. It is under a duty to decide all questions of fact and law raised in the appeal before it: for that purpose it must consider whether on the materials relied upon by the assessee his plea is made out. Conclusive proof of the claim is not predicated: the Tribunal may act upon probabilities, and presumptions may supply gaps in the evidence which may not, on account of delay or the nature of the transactions or for other reasons, be supplied from independent sources. But the Tribunal cannot make arbitrary decisions: it cannot found its judgment on conjectures, surmises or speculation. Between the claims of the public revenue and of the taxpayers, the Tribunal must maintain a judicial balance."

In Udhavdas Kewalram v. CIT [1967] 66 ITR 462 (SC) the very same Bench of three judges of the Supreme Court again observed as under: -

"The Income-tax Appellate Tribunal performs a judicial function under the Indian Income-tax Act: it is invested with authority to determine finally all questions of fact. The Tribunal must, in deciding an appeal, consider with due care all the material facts and record its finding on all the contentions raised by the assessee

and the Commissioner in the light of the evidence and the relevant law .....The Tribunal was undoubtedly competent to disagree with the view of the Appellate Assistant Commissioner. But in proceeding to do so, the Tribunal had to act judicially, i.e., to consider all the evidence in favour of and against the assessee. An order recorded on a review of only a part of the evidence and ignoring the remaining evidence cannot be regarded as conclusively determining the questions of fact raised before the Tribunal."

20. *We are satisfied that the Tribunal has, in making its decision, kept in mind the aforesaid principles adumbrated by the Supreme Court. Its order cannot, therefore, be branded as perverse or unreasonable or irrational.*

21. *That takes us to the question as to whether in condoning the delay the Tribunal committed any error of law or illegality. There is a wealth of judicial literature on the subject of condonation of delay and most of the cases have arisen under section 5 of the Limitation Act, 1963. The principles that are to be applied are, however, no different whenever the question of condonation of delay comes up for consideration under other statutes. In the oft quoted judgment of the Supreme Court in Collector, Land Acquisition v. MST. Katiji [1987] 167 ITR 471 it was observed as follows: -*

"The Legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on the merits". The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy."

22. *The following general principles were laid down and it is these principles which guide the Court in approaching the question of condonation of delay: -*

"And such a liberal approach is adopted on principle as it is realized that:

1.	*Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
2.	*Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*
3.	*"Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational, common sense and pragmatic manner.*
4.	*When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
5.	*There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*
6.	*It must be grasped that the judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

23. *In N. Balakrishnan v. M. Krishnamurthy [1998] 7 SCC 123 the Supreme Court again reiterated the approach. In Ram Nath Sao v. Gobardhan Sao [2002] 3 SCC 195 it was observed by the Supreme Court that acceptance of the explanation furnished should be the*

rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. In the present case, the Tribunal has found that the assessee-society has taken prompt remedial action and put Sikri on the dock and he also admitted his fault, though he tried to shift the blame to his employee whose whereabouts were never known. Even in his bail application he had confessed to his role in the alleged irregularities and illegalities. There has been no want of bona fides on the part of the assessee, nor did it fail to take immediate action once it was apprised of the irregularities in its affairs by M. P. Mansinghka Trust of Mumbai. In these circumstances, we are unable to say that the Tribunal committed an error in condoning the delay.

24. *On the question of perversity of the decision of the Tribunal we may also refer to the judgment of the Supreme Court in Sree Meenakshi Mills Ltd. v. CIT [1957] 31 ITR 28. In that judgment, it was noted that only a question of law can be referred for decision of the Court and the decision of the Tribunal on a question of fact can be challenged only if it is not supported by any evidence, or is unreasonable or perverse. The following pithy observations of T.L. Venkatarama Aiyar, J. speaking for the Court are relevant: -*

> *" ..... The point for decision is whether there arises out of the order of the Tribunal any question which can be the subject of reference under section 66 (1) of the Act Under that section, it is only a question of law that can be referred for decision of the Court, and it is impossible to argue that the conclusion of the Tribunal is anything but one of fact. It has been held on the corresponding provisions in the English Income-tax statutes that a finding on a question of fact is open to attack as erroneous in law only if it is not supported by any evidence, or if it is unreasonable and perverse, but that where there is evidence to consider, the decision of the Tribunal is final even though the Court might not, on the materials, have come to the same conclusion if it had the power to substitute its own judgment. In Great Western Railway Co. v. Bater (1), Lord Atkinson observed:*

"Their (Commissioners') determinations of questions of pure fact are not to be disturbed, any more than are the findings of a jury, unless it should appear that there was no evidence before them upon which they, as reasonable men, could come to the conclusion to which they have come: and this, even though the Court of Review would on the evidence have come to a conclusion entirely different from theirs."

There is no need to further elaborate this position, because the law as laid down in these observations is well settled, and has been adopted in the construction of section 66 of the Act."

25. *This view was reiterated by the Supreme Court in CIT v. Daulatram Rawatmull [1964] 53 ITR 574 where it was held that "if there is some evidence to support the finding recorded by the Tribunal, even if it appears to the High Court that on re-appreciation of the evidence, it might arrive at a conclusion different from that of the Tribunal" the High Court has no power to interfere with the findings of the Tribunal. These decisions were applied by a Division Bench of this Court in CIT v. Baba Avtar Singh[1972] 83 ITR 738 where it was observed as under: -*

> *"The submission made by Mr. Sharma does not appear to us to be correct. It is well-settled that the court cannot set aside the Tribunal's finding of fact if there is some evidence to support that finding even though the court itself might have come to a different conclusion upon the evidence."*

26. *The aforesaid principles govern the order of the Tribunal and the approach to be adopted by us in the present case. At best, what can be argued by the Revenue is only that another view was possible to be taken by the Tribunal and this Court should prefer the alternative view on the same facts and evidence and discard the Tribunal's view. Obviously the argument cannot be upheld, having regard to the above judgments.*

27. *For the above reasons we answer the substantial questions of law framed in ITA Nos.754, 773 and 775 of 2010 in the negative, against the Revenue and in favour of the assessee. Consequently the sole substantial question of law framed by us in ITA Nos.1092, 1101, 1103, 1104, 1112 and 1124 of 2010 is answered in the affirmative, against the Revenue and in favour of the assessee. The C.M. Application is disposed of. The appeals of the Revenue are accordingly dismissed with no order as to costs."*

20. Respectfully following the judgement of the Hon'ble Delhi High Court in the case of Vishwa Jagriti Mission (supra), wherein the delay in filing application for registration u/s 12A, was allowable / condoned, hence, we condone the delay in filing Form10AB, u/s 80G(5), and remit the matter back to the file of Ld.CIT(E) with the direction to decide the application of assessee, in accordance with law. The assessee is also directed to file details and documents, before ld CIT(E), as and when, required by ld CIT(E). For statistical purposes, the appeal of the assessee is treated to be ***allowed****."*

7. We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, respectfully following the binding Precedent of the Co-ordinate Bench in the case of Vananchal Kelavani Trust(supra), we remit this issue back to the file of the Ld.CIT(E), with the direction to grant the approval in accordance with Law. The assessee is also directed to file the relevant details and documents, before ld CIT(E), as and when required by ld CIT(E). For statistical purposes, the appeal of the assessee is treated as allowed.

8. In the result, appeal filed by the assessee is allowed for statistical purposes, in above terms.

Order pronounced in the open court on 28/03/2025.

Sd/-	Sd/-
(DINESH MOHAN SINHA)	**(DR. ARJUN LAL SAINI)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

राजकोट /Rajkot (True Copy)
दिनांक/ Date: 28/03/2025
DKP Outsourcing Sr.P.S

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, राजकोट