

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2280/PUN/2024

The Umrao Institute of Medical Science And Research, Asmita House, Naya Nagar Mira Road, East Thane- 401107. PAN : AAATT2858F	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri Rahul Sarda (Virtual)
Revenue by : Shri Ajay Kumar Keshari

Date of hearing : 07.04.2025
Date of pronouncement : 07.05.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 31.08.2024 passed by Ld. CIT, Exemption, Pune rejecting the application for registration u/s 80G of the IT Act.

2. Facts of the case, in brief, are that the assessee is a trust filed its application for registration in Form No.10AB under sub-clause (B) of (iv) of first proviso to sub-section (5) of section 80G of the IT

Act on 16.02.2024. With a view to verify the genuineness of activities of the assessee and fulfilment of conditions laid down in clause (i) to (v) of section 80G(5) of the IT Act, a notice was issued through ITBA portal on 01.05.2024 requesting the assessee to upload certain information/clarification on or before 17.05.2024. The assessee in response to above notice furnished desired information as mentioned in the notice. After verifying these details, Ld. CIT, Exemption, Pune found certain discrepancies and asked for their clarification on or before 29.08.2024. Ld. CIT, Exemption, Pune also observed that the application for approval u/s 80G(5) was filed under sub-clause (B) of clause (iv) which is not applicable to the assessee. Not being satisfied with the explanation furnished by the assessee in response to above notice, Ld. CIT, Exemption, Pune was of the opinion that the condition (i) of section 80G(5) of the IT Act is not fulfilled & accordingly the application filed by the assessee was rejected. It is this order against which the assessee is in appeal before this Tribunal.

3. Ld. AR appearing from the side of the assessee trust submitted before us that the application for registration u/s 80G(5) was rejected on various grounds including technical ground of

mentioning wrong section code. In this regard it was submitted by Ld. Counsel of the assessee that there was no deliberate/wilful intention to submit the application under wrong code before Ld. CIT, Exemption, Pune. Ld. AR further submitted before the bench that Ld. CIT, Exemption, Pune has not provided sufficient opportunity to the assessee since the compliance was due on 29-08-2024 & the order rejecting the application was passed on 30-08-2024. It was contended that if Ld. CIT, Exemption, Pune was not satisfied with the reply furnished by the assessee he should have provided another opportunity to the assessee to furnish additional reply if any. Accordingly, Ld. AR requested before the Bench to set-aside the order passed by Ld. CIT, Exemption, Pune and further requested to direct him to provide another opportunity of hearing to the assessee, so that the assessee can produce documents / evidence/ explanations in support of the application for approval u/s 80G of the IT Act.

4. Ld. DR appearing from the side of the Revenue supported the order passed by Ld. CIT, Exemption, Pune & requested to confirm the same.

5. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper-book furnished by the assessee. We find that due to mentioning of wrong section code & since Ld. CIT, Exemption, Pune was not satisfied with the reply of the assessee the application for approval u/s 80G(5) of the IT Act was rejected by observing as under :-

“10. Considering the above, and since the assessee's activities were already commenced at the time of filing the present application and it has claimed deduction under section 11 for previous year before the date of the present application, the assessee trust is not eligible to file application under clause (B) of (iv) first proviso to sub-section (5) of section 80G of the Income-tax Act, 1961.”

6. From a perusal of above order, we find that the application filed by the assessee was rejected on account of wrong mentioning of particular code. In this regard, we find that under identical facts a Co-ordinate Bench of this Tribunal in the case of Nitdaa Foundation vs. CIT, 167 taxmann.com 111 (Kolkata – Trib.) has already allowed the appeal of the assessee by observing as under :-

“12. Thus, the whole controversy arose due to incorrect mention of the clause under which the application was required to be filed, which was mentioned as clause (iv) of the first proviso to sub-section (5) of section 80G in column 6 of Form No. 10AC whereas the same should have been mentioned as clause (i) of the first proviso to sub-section (5) of section 80G and the Ld. AR also admitted this fact in the course of the hearing. Since, Form No. 10AC was filed in time, the error on the part of the assessee for mentioning the wrong clause is deemed to be a curable defect and the application on Form No. 10AC is deemed to be

filed under clause (i) of the first proviso to sub-section (5) of section 80G. The order of the Ld. CIT(Exemption) is hereby set aside and he is required to consider the application as filed under clause (i) of the first proviso to section 80G(5) of the Act and consider the same for grant of approval under section 80G(5) to the trust in accordance with law within a period of 2 months from the date of receipt of this order. The assessee shall file all necessary evidence before him.”

7. Respectfully following the above decision and in the light of the fact stated by the counsel of the assessee that the trust is also registered u/s 12A of the IT Act, we deem it fit to set-aside the order passed by Ld. CIT, Exemption, Pune and remand the matter back to him with a direction to treat the application of the assessee as filed under required/desired clause of first proviso to sub-section (5) of section 80G and consider the same for grant of approval u/s 80G(5) of the IT Act in accordance with law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to comply with the notices issued by Ld. CIT, Exemption, Pune in this regard and produce requisite information/documents/evidences in support of application for approval u/s 80G of the IT Act, otherwise Ld. CIT, Exemption, Pune shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee in this appeal are partly allowed.

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

Order pronounced on 07th day of May, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 07th May, 2025.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT, Exemption, Pune.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.