

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.440/Bang/2025
Assessment year : 2025-26

Eeswara Seva Samithi, 868/1, Balaji Tractors, P.B. Road, Shankarivihar Extension, Davangere-577 006. PAN: AABTE 2673E	Vs.	The Income Tax Officer, Exemptions, Exemption Ward-1, Hubballi.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ramana Gowda S Gowdar, Advocate
Respondent by	:	Smt. Srinandini Das, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	05.05.2025
Date of Pronouncement	:	13.05.2025

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Eeswara Seva Samithi (the assessee/appellant) for the assessment year 2025-26 against the order passed by the Commissioner of Income Tax, Exemptions, [Id. CIT(E)] dated 27.12.2024 wherein the application of the assessee in Form 10AB for

recognition u/s. 80G(5) of the Income-tax Act, 1961 [the Act] was rejected.

2. The brief facts of the case show that assessee filed application in Form 10AB on 30.6.2024 for approval u/s. 80G(5) of the Act. On examination of the details, the Id. CIT(E) found that assessee has not made any substantial expenditure towards the object of the trust and assessee has also not commenced its activities of attainment of the objects. It was noted that assessee has received donation of Rs.4,78,63,616 for the year ended on 31.3.2024, but as per Income & Expenditure account for 31.3.2024, has incurred only the expenditure of audit fees of Rs.15,000. Further, upto 31.3.2024 assessee has received corpus donation of Rs.50 lakhs, but has incurred expenditure of only 25,000 as audit fees and Rs.20,000 as consultation fee. Therefore the Id. CIT(E) has rejected the application of the assessee,
3. The assessee is in appeal before us.
4. The Id. AR filed a paperbook containing 130 pages and submitted that assessee has submitted all the details about the activities of the trust. He referred to its reply placed at pages 14 to 129 of the PB. He further submitted that appeal of the assessee against not granting registration u/s. 12AB of the Act in ITA No.396/Bang/2025 is already heard and order is awaited. The judgment of that appeal will decide the fate of recognition u/s. 80G(5) to the assessee. Therefore, the Id. CIT(E) may be directed to decide this issue after decision in that appeal.

5. The Id. CIT(DR) supported the order of the Id. CIT(E) and stated that when the assessee has not commenced any activity, there is no purpose in granting recognition to the assessee trust u/s. 80G(5) of the Act.
6. We have considered the rival contentions and perused the order of the Id. CIT(E) rejecting the application for registration u/s. 80G(5) of the Act to the assessee. It was also pointed out that in ITA No.396/Bang/2025 the assessee's registration u/s. 12AB of the Act was also challenged before the ITAT. The appeal of the assessee is heard and order is awaited. If the assessee trust gets registration u/s. 12AB of the Act, naturally thereafter only the assessee can get the approval u/s. 80G(5) of the Act. If the assessee fails to get registration u/s. 12AB of the Act, there is no question of grant recognition u/s. 80G(5) of the Act. As the issue of granting registration u/s. 12AB to the assessee has not been decided yet, in the interest of justice, we restore this appeal back to the file of CIT(Exemptions) to decide after the issue of registration u/s. 12AB is decided, in accordance with law and after granting assessee an opportunity of hearing.
7. In view of the above facts, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 13th day of May, 2025.

Sd/-

Sd/-

(SOUNDARARAJAN K.)
JUDICIAL MEMBER

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,

Dated, the 13th May, 2025.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.