

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.1109/M/2025  
Assessment Year: 2025-26**

<b>M/s. Shreans Daga Foundation,</b> Floor 6, Plot No.85, Maker Towers (E), GD Somani Marg, Cuffe Parade, Colaba, Mumbai – 400 005 <b>PAN: AAFCC5220Q</b>	Vs.	<b>The Commissioner of Income Tax Exemptions,</b> 6 <sup>th</sup> Floor, MTNL Telephone Exchange Bldg., Peddar Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hills, Mumbai – 400 026
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Abhishek Modi, Ld. A.R.  
Revenue by : Shri R.A. Dhyani, Ld. D.R.

Date of Hearing : 08.05.2025  
Date of Pronouncement : 30.05.2025

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 16.01.2025, impugned herein, passed by the Ld. Commissioner of Income Tax (Exemptions) (in short Ld. Commissioner) u/s 10AD of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2025-26.

**2.** In this case, the Assessee was granted provisional approval u/s 80G of the Act in form 10AC, which was valid from 05.09.2022 to A.Y. 2025-26 and therefore the Assessee by filing application in form 10AB had sought for regular approval u/s 80G(5) of the Act.

**3.** The Ld. Commissioner rejected the said application filed by the Assessee by mainly holding as under:

“That the Assessee has applied for registration u/s 80G of the Act under sub-clause (ii) of 1<sup>st</sup> proviso to sub section 5 of section 80G of the Act, which is valid only for the trusts already having regular approval for 5 years and is seeking renewal of regular approval, which is due to expire. As the Assessee having provisional registration for 3 years, does not qualify to make the application under clause (ii) of 1<sup>st</sup> proviso to sub section (5) of section 80G. Thus, the application is not maintainable and stands rejected”.

**4.** The Assessee, being aggrieved, challenged the impugned order, by filling instant appeal before this Court.

**5.** Having heard the parties and perusing the material available on record and giving thoughtful considerations to the peculiar facts and circumstances of the case, we observe that the Assessee, in the application for registration u/s 80G(5) of the Act, may be overlooking or inadvertently mentioned sub clause (ii) of 1<sup>st</sup> proviso to sub section (5) of section 80G of the Act instead of sub clause (iii) of the said proviso. In our considered view, the Ld. Commissioner would have sidelined this mistake and decided the application filed by the Assessee in its right perspective and proper manner, but simply on the wrong mentioning of the sub clause, rejected the application, which in fact expanded the litigation, and therefore such approach is not acceptable. Thus, we are inclined to set aside the impugned order and consequently remanding the case to the file of the Ld. Commissioner for decision afresh, by taking into consideration the application filed by the Assessee for registration u/s 80 G(5) of the Act under sub clause (ii) to the proviso to such section **by considering the same as filed under sub clause (iii) to the proviso to section 80G(5) of the Act.** Thus, the case is accordingly remanded to the file of Ld. Commissioner for decision afresh.

**6.** In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

**Order pronounced in the open court on 30.05.2025.**

**Sd/-  
(RENU JAUHRI)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.