

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No. 244/SRT/2025

(Hybrid hearing)

Shah Manilal Motilal Khadayta Chhatralay And Bhuvan Mandal Gurjar Ealiya, Contractor Ni Sheri, Haripura, Surat-395 003	बनाम/ Vs.	Commissioner of Income-tax (Exemption), Ahmedabad, Aayakar Bhawan (Vejalpur), Near Sachin Tower, 100 Foot Ring Road, Anandnagar-Prahladnagar Road, Ahmedabad-380 015
स्थायी लेखासं./जीआइआरसं./PAN/GIR No: AANTS 1271 L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Respondent by	Shri Ashish Pophare, CIT-DR
अपील पंजीकरण/Appeal instituted on	26/02/2025
सुनवाई की तारीख/Date of Hearing	04/06/2025
उद्घोषणा की तारीख/Date of Pronouncement	11/06/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal emanates from the order dated 28.06.2024 passed by the Commissioner of Income-tax (Exemption), Ahmedabad [in short “the CIT(E)”] rejecting application for grant of registration under Section 80G(5)(iii) of Income-tax Act, 1961 (‘in short, the Act’) in absence of valid registration certificate u/s 12A of the Act.

2. Grounds of appeal raised by the assessee for the appeals are as under:

“1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of the Income-tax(Exemption), Ahmedabad has erred in rejecting application for grant of registration u/s 80G(5)(iii) of the Income Tax Act, 1961. In absence of valid registration certificate u/s 12A of the Act.

2. On the facts and in the circumstances of the case as well as the law on the subject the learned Commissioner of the Income Tax (Exemption), Ahmedabad has erred in not granting adequate opportunity to hear and passed the order, hence, the principal of natural justice is not abide.

3. On the facts and in the circumstances of the case as well as the law on the subject, the appellant trust is qualifying for registration u/s 80G(5)(iii) of the Income Tax Act, 1961.

4. It is therefore prayed that order of CIT(Exemption) should be directed passed u/s 80G(5)(iii) of the Income Tax Act, may please be set aside to the file of the CIT (Exemption) with appropriate direction.

5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”

3. The appeal was filed late by 183 days. The appellant has filed an affidavit and stated that the order was passed on 28.06.2024 and hence the appeal was required to be filed on or before 27.08.2024; but, it was actually filed on 26.02.2025, after a delay of 183 days. The appellant is a small trust and was not aware about online income-tax proceedings. As and when the appellant received notices of hearing, the same were forwarded to its Authorized Representative for further action. The tax consultant did not check e-mails regularly. When it was discovered that the CIT(E) has passed order rejecting the application u/s 80G(5)(iii), the appellant immediately consulted the AR and filed the appeal. Hence, the delay of 183 days was not intentional and there was sufficient and reasonable cause for not filing appeal in time before Tribunal. The Ld. AR of the appellant requested that the delay may be condoned and the appeal may be decided on merit.

4. On the other hand, Learned CIT-DR for the Revenue submitted that the Tribunal may decide as it thinks fit.

5. We have considered the reasons given by the Ld. AR and perused the accompanied affidavit. We find that the delay of 183 days in filing appeal was not deliberate and intentional on the part of assessee. After considering the reasons given in the affidavit, we find that there was sufficient cause for not filing the appeal on time. The appellant is a small trust and the delay was due to not checking the e-mail on regular basis. It is well recognized that when technical consideration and cause of substantial justice are pitted against each other, the cause of substantial justice may be preferred. Hence, the delay in filing the appeal is condoned and the appeal is decided on merit.

6. Brief facts of the case are that the appellant-trust filed an application for approval u/s 80G(5)(iii) of the Act. The CIT(E) issued notices on 26.04.2024, 16.05.2024 and 18.06.2024. The appellant filed reply to the said notices. On perusal of the reply and details available on record, the CIT(E) found that the application of the appellant filed on 14.12.2023 in Form No.10AB for registration u/s 12A(1)(ac)(iii) of the Act was rejected vide order bearing No.ITBA/EXM/F/EXM45/2024-25/1066160665(1) dated 27.06.2024. Since the appellant did not have any valid registration u/s 12A(1)(ac)(iii), the pre-requisites for grant of approval u/s 80G is not satisfied. Hence, the application was rejected without going into the merit of the case.

7. Aggrieved by the order of CIT(E), the assessee filed appeal before the Tribunal. The learned Authorized Representative (ld. AR) of the assessee submitted that against the order of rejection of the application for registration u/s 12A(1)(ac) (iii) of the Act, the appellant had filed an appeal before the Tribunal. The Tribunal has set aside the order of CIT(E) and remanded it to the file of CIT(E) for passing a fresh order after granting adequate opportunity of hearing to the assessee. Hence, he requested that the present order of CIT(E) may also be set aside to the file of CIT(E).

8. On the other hand, learned Commissioner of Income-tax - Departmental Representative (ld. CIT-DR) for the revenue supported the order of CIT(E). He would, however, have no objection if the matter is remitted to the file of the CIT(E) for fresh adjudication.

9. We have heard both the parties and perused the materials available on record. The order of CIT(E) rejecting the application for registration u/s 12A(1)(ac)(iii) has been set aside by the Tribunal and CIT(E) has been directed to pass fresh order after granting adequate and reasonable opportunity of hearing to the appellant. The Ld.AR of the assessee, therefore, requested that the present appeal may also be set aside to the file of CIT(E). The ld. CIT-DR has also no objection, if matter is remitted to the CIT(E). Considering all these facts, the order of CIT(E) is set aside and restored to the file of CIT(E) for fresh consideration on merits after deciding the application for registration u/s

12A(1)(ac)(iii) of the Act. The CIT(E) should grant adequate and reasonable opportunity of hearing to the assessee. The assessee is also directed to furnish its submission and the relevant details/documents before the CIT(E) as and when called for. For statistical purposes, the appeal of the assessee is treated as allowed.

10. In the result, assessee's appeal is allowed for statistical purposes.

Order is pronounced in accordance with Rule 34(3) of the ITAT Rules, 1963 on 11/06/2025 in the open court.

Sd/-
(SUCHITRA R KAMBLE)
न्यायिक सदस्य/JUDICIAL MEMBER
सूरत /Surat
दिनांक/ Date: 11/06/2025
Dkp Outsourcing Sr.P.S*

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

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 अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत