

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH KOLKATA

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No. 17/KOL/2025
Assessment Year: 2022-2023**

IQ City Knowledge and Health Campus, 9 IT Chambers, 164/1, Maniktala Main Road, Kolkata – Kankurgachi, West Bengal - 700054 (PAN: AADCI7157E)	Vs	CIT (Exemption), Aayakar Bhawan, 10B, Middleton Row, Kolkata - 700071
(Appellant)		(Respondent)

Present for:

Appellant by : Ayush Gupta, AR
Respondent by : P.N. Barnwal, CIT-DR

Date of Hearing : 17.06.2025
Date of Pronouncement : 25.06.2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Exemption), Kolkata (hereinafter referred to as “the Ld. CIT(E)”) passed u/s 80G(5) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) dated 09.11.2024.

2. The grounds of appeal raised by the assessee are reproduced as under:

“1. That on the facts and in circumstances of the case and in law, the Ld. CIT(Exemption) erred in rejecting assessee's application for final registration U/s 80G(5)(ii) in violation of principles of natural justice.

2. That on the facts and in circumstances of the case, the objects of the assessee include relief of the poor, education, advancement of any other objects of general public utility and rejection of registration would be detrimental to the charitable activities of the company.

3. That on the facts and in circumstances of the case, the assessee company has all requisite documents in his possession and prays for opportunity of being heard to furnish said documents.

4. That on the facts and in circumstances of the case, the Ld. CIT(Exemption) may kindly be directed to allow Registration U/s 80G(5)(ii) of the Income Tax Act 1961.

5. That the appellant craves leave to add, alter, adduce or amend any ground or grounds on or before the date of hearing of the appeal.”

3. Brief facts of the case are that the assessee had filed an application dated 24.05.2024 in Form No. 10AB for registration under clause (ii) of the second proviso to sub-section (5) of Section 80G of the Income Tax Act, 1961. A notice dated 07.10.2024 was issued through ITBA fixing the hearing on 14.10.2024, but there was no compliance to the notice. Further opportunity was given to the applicant assessee vide notice dated 18.10.2024 re-fixing the hearing on 23.10.2024, but again no compliance was made nor any reply was received from the applicant assessee. Hence, in the absence of any reply or response from the applicant assessee, the matter was decided *ex parte* and the application for registration under clause (iii) of the second proviso to sub-section (5) of Section 80G of the Income Tax Act, 1961 was rejected *in limine*. Aggrieved with the order of the Ld. CIT(E), the assessee has filed the appeal before the Tribunal.

4. Rival submissions were heard and the record and the submissions made have been examined.

5. It was submitted before us by the Ld. AR that the assessee is a charitable company and had filed application for final approval sometime in May 2024 and the notice of hearing was issued in October 2024. The concerned person could not check the email and therefore, the Ld. CIT(E) passed an *ex parte* order in which the approval sought under section 80G was denied. The Ld. AR requested that the order of the Ld. CIT(E) may be set aside as the assessee has sufficient evidence for the approval sought.

The Ld. DR argued that the order of the Ld. CIT(E) may be upheld as the assessee did not file the required documents before him and the appeal may be dismissed.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(E). The Bench was of the view after hearing the Ld. AR that the Ld. CIT(Exemption) had rejected the registration u/s 80G of the Act on account of absence of any reply in response to the notices issued to the assessee as the genuineness of the activities of the Trust could not be verified. Therefore, in the interest of justice, it was considered imperative that the assessee may be granted another opportunity to file the required information in response to the notice issued by the Ld. CIT (Exemption) for justifying the genuineness of the activities of the trust for the claim of exemption. Hence, the order of the Ld. CIT (Exemption) is hereby set aside and the matter is remanded to him for deciding the application afresh after granting an opportunity of being heard to the assessee and considering the reply which may be filed and thereafter pass a speaking order in accordance with law.

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

Order pronounced in the open Court on 25th June, 2025.

Sd/-
(George Mathan)
Judicial Member

Sd/-
(Rakesh Mishra)
Accountant Member

Dated: 25th June, 2025

Copy to:

1. The Appellant:
2. The Respondent.
3. CIT(A)
4. The CIT,
5. DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata