

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

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 2603/Mum/2025
(Assessment Year: 2025-26)**

Chunilal Mehta Charitable Trust 310 Mehta House, 36 Pandita Ramabai Road, Chowpathy, Mumbai- 400007	Vs.	Commissioner of Income-tax (Exemption) 601, Cumballa Hill, MTNL Building, Near Peddar Road, Dr Gopal Rao Deshmukh Road, Mumbai-400026
PAN/GIR No. AABTC7958C		
(Applicant)		(Respondent)

Assessee by	Shri. D. B. Shah
Revenue by	Shri. R A Dhyani, SR. DR.

Date of Hearing	10.07.2025
Date of Pronouncement	04.08.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 10.03.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by Commissioner of Income Tax (Exemptions) for the assessment year 2025-26.

2. We have heard the counsel for the parties and placed material on records. The judgments cited before us and also order pronounced by the revenue authorities.

3. From the record we notice that as per the facts and circumstance of the case, an application for seeking approval u/s 80G of the Act was filed by the assessee. However, the same was rejected on the sole ground that since applicant/assessee had claimed exemption in previous years. Therefore while referring to the provision of section 80G(5)(iv)(B) of the Act which is reproduced herein below:

“1. M/s Chunilal Mehta Charitable Trust [hereafter 'the applicant'] filed application in Form 10AB under clause (iv)(B) of 1st proviso to 80G(5) seeking approval under section 80G of the Act.

2. Under the relevant section 80G(5)(iv) (B) of the Act, in any other case, where activities of the trust or institution have:

“

(B) commenced and no income or part thereof the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any previous year ending on or before the date of such application, at any time after the commencement of such activity.”

3. On verification of the facts and circumstances of the case, it is found that the trust was incorporated on 12.01.1973. Further, the applicant has already claimed

exemption by filing ITR-7 before applying for regularization of approval in Form 10AB (Previous Years).

4. As per above mentioned provision of Income Tax Act, the applicant has to file Form 10AB u/s 80G(5) (iv) (B), if the applicant has not claimed exemption in Previous years. Since the applicant has claimed exemption in Previous years, therefore this application u/s 80G is not allowable. Further, the applicant is not fulfilling the stipulated conditions prescribed for filing application for approval in Form 10AB. In view of the above this application Form is hereby rejected.

5. In conclusion, this application for grant of registration stands rejected.”

the same was rejected.

4. However, CIT(E) has not considered the important aspect that the said provisions have already been *omitted* from the statute w.e.f. 01.04.2024. Thus, in this way the said condition is no longer there in the statute book and therefore the same cannot be the reason for denial of exemption.

5. Considering the said fact, we deem it appropriate to restore the matter back to the file of Ld. CIT(E) to examine the application filed by the assessee a fresh after providing reasonable opportunity to the assessee.

6. Before parties, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(E) shall in no way be construed as having any reflection or explanation on the merits of the dispute, which shall be

adjudicated by the Ld. CIT(E) on the merits independently
in accordance with the law.

Order pronounced in the open court on 04.08.2025

Sd/-

**(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)
JUDICIAL MEMBER**

Mumbai, Dated 04/08/2025

Disha Raut, Stenographer

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

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उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai