



**IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI**



**BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**AND**

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**ITA Nos. 001/PAN/2025**

Shree Sadguru Educational and Welfare Trust

Gurukul, Chogam Road, Bela Vista Wadda,

Sangolda, North Goa, Goa-403521.

PAN : AAETS8722K

..... Appellant(1)

**And**

**ITA Nos. 005/PAN/2025**

Sri Sai Swadhyay Mandal

47, 'Saidham' Defence Colony,

Alto-Porvorim, Bardez, Goa-403521.

PAN : AABTS2136E

..... Appellant(2)

**V/s**

Income Tax Officer,

Exemption, Panaji, Goa.

..... Respondent

**Appearances**

Assessee by : Mr S V Padhye ['Ld. AR']

Revenue by : Mr Capt. Pradeep Arya ['Ld. DR']

Date of conclusive Hearing : 03/03/2025

Date of Pronouncement : 11/03/2025

**ORDER**

**PER G. D. PADMAHSHALI;**

These twin appeals of captioned assessee's are instituted u/s 251(1)(c) of the Income-tax Act, 1961 [hereinafter 'the Act'] against respective order of the Ld. Commissioner of Income Tax (Exemption), Bangalore [hereinafter 'Ld. CIT(E)'] passed u/s 80G(5) of the Act whereby applications for grant of regular 80G approval/recognition were rejected *in limine*.



2. Since facts, circumstances and matter of dispute brought in this twin appeals are identical, upon rival party's common request and for the sake of brevity these appeals are heard together for being disposed-off by a consolidated & common order.

**ITA No 001/PAN/2025 (Lead Case)**

3. *Succinctly stated facts borne out of case records are that;*

3.1 the assessee is established as a Public Charitable Trust on 22/10/2004 and was initially registered under the Act vide Regn. No S-186/12A/CIT/PNJ/2004-2005. Pursuant to new scheme/provisions of mandatory revalidation of Charitable Institutions brought in by Finance Act, 2020 the assessee applied a fresh for grant of provisional 12A & provisional 80G registration under the amended provisions of the Act. The Ld. CIT(E) having satisfied with the compliance of law, vide order dt. 28/05/2021 granted a provisional registration u/s 12A(1)(ac)(i) of the Act and similarly upon a separate application vide order dt. 31/08/2021 a provisional registration u/s 80G(2)(iv) of the Act was also granted for a period 31/08/2021 till 2024-25.



3.2 In compliance of conditions attached to such provisional 80G registration, the assessee vide Form No 10AB dt. 16/05/2024 applied for a grant of regular 80G registration u/s 80G(5)(iv)(B) of the Act. The Ld. CIT(E) vide notice dt. 04/10/2024 called upon the assessee to represent its case with necessary documents. In response thereto the assessee attended the scheduled hearing and submitted all the necessary documents to the satisfaction of Ld. CIT(E). In the course of approval proceedings a defect in the application dt. 16/05/2024 relating to applicable clause was identified by the Ld. CIT(E) and in the absence of facility to amend or cure such defect the assessee was directed to re-apply afresh selecting the correct provision as *'clause (iii) to 1<sup>st</sup> proviso to s/s (5) of section 80G of the Act'*. Upon such direction the assessee re-applied immediately for regular 80G registration on 21/10/2024, however, pending the same without further notice, by the impugned order dt. 08/11/2024 the Ld. CIT(E) rejected the assessee's first application dt. 16/05/2024 'as defective' for selecting wrong code while applying for regular registration.



4. Aggrieved by the said rejection, the appellant assessee came in appeal alleging the violation of principle of natural justice.

5. We have heard the rival party's common submissions; and subject to the provisions of rule 18 of ITAT Rules, 1963, perused the material placed on record. We note that, prior to applying for regular registration, the appellant was granted a provisional registration vide order dt. 31/08/2021, pursuant to which the appellant was under obligation to apply for regular registration u/c (iii) of 1<sup>st</sup> proviso to s/s (5) of section 80G of the Act. However, we note that while applying for regular registration the appellant inadvertently selected the applicable clause/class as '***u/s 80G(5)(iv)(B) of the Act***' in place of applicable provision i.e., '***u/c (iii) of first proviso to s/s (5) of section 80G of the Act***'. The records shows to the satisfaction that, said inadvertency while applying for regular registration was sheerly crept-in owing to confusion in the minds of representatives. The material placed on records also suggest that, such inadvertency was not only accidental but undeliberate on the part of appellant.



6. When a defect in first application was notified, upon a direction in correction thereof the appellant filed a fresh application on 21/10/2024 and requested to treat the same in substitution of its original application dt. 16/05/2024 while disposing off the issue. The absence of facility enabling the correction such defect online, the appellate was to duplicate the filings process which further added fuel to confusion. We say so because, as it can be seen from the records that, as on the date of passing impugned order both applications were on record, and pending the corrected application, the Ld. CIT(E) dealt with first application and rejected the same as defective. It may be that, while dealing with the issue of regular 80G approval, the request of the appellant for substituting original application with that of subsequent corrected application through oversight skipped the attention of the Ld. CIT(E). This resulted into *ex-parte* rejection *in limine* without further notice to appellant in violation of principle of natural justice as stipulated in *clause (ii)(b)(B) of 2<sup>nd</sup> proviso to section 80G(5) of the Act.*



7. The material placed on records sufficiently suggest that, there was a bonafied mistake on the part of appellant while filing an application in seeking regular registration on the basis of provisional registration granted to it u/s 80G(5)(vi) r.w.c. (iv) of first proviso to s/s (5) of section 80G of the Act. On the other hand, the culmination of proceedings without the adherence to clause (ii)(b)(B) of 2<sup>nd</sup> proviso to section 80G(5) of the Act since suffered from natural justice therefore we see no reasons to turn down the appellant's request for remitting the issue back to the file of the Ld. CIT(E) for *de-novo* adjudication which the Revenue could hardly object the same.

8. In view thereof, we deem it fit to set aside the impugned order of rejection and remand the issue back to the file of Ld. CIT(E) with a direction to restore former defective application dt. 16/05/2024 first and substitute the same by subsequent correct application dt. 21/10/2024 and treat the same as filed by the appellant u/c (iii) of first proviso to s/s (5) of section 80G of the Act & within the stipulated time limit and adjudicate the issue on



merits on the basis of material already placed on records in response to notice dt. 04/10/2024. Ordered Accordingly.

9. To demystify, it is further directed that, upon the due verification of facts of the case, if the appellant assessee is granted a final approval or regular registration in accordance with law then, the benefit of such approval u/s 80G of the Act made available to the appellant under such final approval/registration shall be deemed to be continued without any break. Thus, the appellant shall not be deprived of the benefit during the time period falling between the expiry provisional approval and until the grant of final approval, due to technical errors occurred in applying for grant merely because of the confusion and misunderstanding on part of the appellant as well as on part of the Ld. CIT(E) in properly appreciating the facts & interpreting the relevant provisions of the statute. It is further directed that the Ld. CIT(E) will decide the issue under remittance *de-novo* as expeditiously as possible but not later than two months from the date of this common & consolidated order. Ordered Accordingly.



The grounds of the appeal thus, accordingly stands partly allowed for statistical purposes.

### **ITA No 005/PAN/2025**

10. The facts and issues involved in this case since identical to the lead case as dealt with hereinbefore, therefore the adjudication laid and the directions issued in all forgoing paragraphs shall *mutatis-mutandis* apply to instant appeal as well. The grounds of appeal raised in the appeal memo stands allowed partly for statistical purposes.

**11. In results, these twin appeals are allowed for statistical purposes in aforestated terms.**

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

**-S/d-  
PAVAN KUMAR GADALE  
JUDICIAL MEMBER**

**-S/d-  
G. D. PADMAHSHALI  
ACCOUNTANT MEMBER**

Panaji/Dt: 11th March, 2025.

**Copy of the Order forwarded to :**

- |                   |                                   |                              |
|-------------------|-----------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent.                | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File                |

By Order,  
Sr. Private Secretary / AR ITAT, Panaji.