

आयकर अपीलीय अधिकरण  
कोलकाता 'डी' पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'D' BENCH, KOLKATA**

श्री जॉर्ज माथान, न्यायिक सदस्य  
एवं  
श्री राकेश मिश्रा, लेखा सदस्य  
के समक्ष  
**Before**

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. Nos.: 1213 & 1214/KOL/2025  
Assessment Year: N.A.**

Shree Karni Mata Trust <b>(Appellant)</b>	Vs.	CIT (Exemption), Kolkata <b>(Respondent)</b>
<b>PAN: AAQTS9942K</b>		

**Appearances:**

**Assessee represented by** : Miraj D. Shah, AR.

**Department represented by** : Sanat Kumar Raha, CIT(DR).

Date of concluding the hearing : 06-August-2025

Date of pronouncing the order : 11-August-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

These appeals filed by the assessee are against the orders of the Ld. Commissioner of Income Tax (Exemption)-Kolkata [hereinafter referred to as the 'Ld. CIT (Exemption)'] passed in respect of registration u/s 12A(1)(ac)(iii) and 80G(5)(iii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 23.12.2024. Both the appeals were heard together and are being decided vide this common order for the sake of convenience and brevity.



1.1. The Registry has informed that both the appeals filed by the assessee are barred by limitation by 94 days. An application seeking condonation of delay has been filed by the assessee stating as under:

*"1. Whereas the appeal for the rejection order under section 12A(1)(ac)(iii) arising from the order passed by the Ld CIT(Exemptions), Kolkata, dated 23/12/2024 which was served on 23/12/2024. The appeal was thus to be filed by 02/06/2025. However, the appeal is being filed on 02/06/2025 hence there is a delay of 162 days in filing the appeal.*

*2. There was a delay of 162 days in filing of this appeal. It has been submitted that the assessee and its trustees were not conversant with Income-tax matters and had never faced any Income-tax litigation in the past. The assessee was unable to operate or login to the Income-tax portal. In the month of May, 2025, the assessee had come to know about rejection of registration u/s 12A/ approval u/s 80G5(iv) of another trust through some other trustees of similar trust. On getting this information the matter was verified about pending approval under section 80G5(iv) the Act of the assessee and it was learnt that the said approval was already rejected.*

*3. The assessee immediately notified their Counsel regarding the whole scenario. The Counsel of the assessee then took immediate steps and the assessee is now filing this by filing appropriate condonation petition.*

*4. It is submitted that considering the above facts and circumstances of the case the assessee humbly prays that the delay in filing of appeal may be condoned considering the above circumstances.*

*5. It is humbly submitted that the delay of 162 days in filing of the appeal was not due to any mala fide intention or negligence on our part but was due to the above said fact, thus the delay was not intentional. It is therefore requested that the delay in filing of the appeal be condoned.*

*6. It is well settled in law that the delay may be condoned in cases where sufficient cause is explained for the delay in filing of the appeal. In support of the same we are relying on the following decisions:*

*(a) In the case of Collector, Land Acquisition v. Mst. Kati Ji 1987 (13) ALR 306, Hon'ble Supreme Court held as follows: "The Legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression 'sufficient cause' employed by the Legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which sub serves the ends of justice -that being*

*the life-purpose of the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other Courts in the hierarchy.*

*Any such a liberal approach is adopted on principle as it is realized that:*

- 1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this; when delay is condoned, the highest that can happen is that a cause would be decided on merit after hearing the parties.*
- 3. 'Every day's delay must be explained' does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational, commonsense and pragmatic manner.*
- 4. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
- 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*
- 6. It must be grapped(sic) that the judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

*(b) In N. Balakrishnan v. M. Krishnamurthy [1998] 7 SCC 123 the Apex Court explained the scope of limitation and condonation of delay, observing as under:*

*"The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy for the redress of the legal injury so suffered. The law of limitation is thus founded on public policy."*

(c) In *Smt. Prabha v. Ram Prakash Kalra* 1987 Suppl. SCC 339, the Supreme Court took the view that the Court should not adopt an injustice-oriented approach in rejecting the application for condonation of delay.

(d) In *Vedabai v. Shantaram Baburao Patil* 2001 (44) ALR 577, the Apex Court made a distinction in delay and inordinate delay observing as under:

*"In exercising discretion under section 5 of the Limitation Act, the Courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the otherwise will be a relevant factor so the case calls for a more cautious approach..."*

(e) In *New India Insurance Co. Ltd. v. Smt. Shanti Misra* AIR 1976 SC 237, Hon'ble Supreme Court held that discretion given by section 5 should not be defined or crystallized so as to convert a discretionary matter into a rigid rule of law. The expression 'sufficient cause' should receive a liberal construction.

(1) In *Brij Inder Singh v. Kanshi Ram* AIR 1917 PC 156, it was observed that true guide for a Court to exercise the discretion under section 5 is whether the appellant acted with reasonable diligence in prosecuting the appeal.

(g) In *Shakuntala Devi Jain v. Kuntal Kumari* AIR 1969 SC 575, the Hon'ble Supreme Court held that unless want of bona fides of such in action or negligence as would deprive a party of the protection of section 5 is proved, the application must not be thrown out or any delay cannot be refused to be condoned.

(h) In *O.P. Kathpalia v. Lakhmir Singh* AIR 1984 SC 1744, the Hon'ble Supreme Court held that if the refusal to condone the delay results in grave miscarriage of justice; it would be a ground to condone the delay.

(i) In *State of Haryana v. Chandramani* AIR 1996 SC 1623, Hon'ble Supreme Court considered large number of its earlier judgments including *Binod Bihari Singh v. Union of India* [1993] 1 SCC 572, *Shakambari & Co. v. Union of India* (1993) Suppl. (1) SCC 487, *Warlu v. Gangotribai* [1995] Suppl. (1) SCC 37, *Ramlal, Motilal and Chhotelal v. Rewa Coalfields Ltd.* AIR 1962 SC 361, *Concord of India Insurance Co. Ltd. v. Nirmala Devi* AIR 1979 SC 1666, *Lala Mata Din v. A. Narayanan* AIR 1970 SC 1953, and held that expression 'each day's delay must be explained', does not mean that a pedantic approach should be made and it must be applied in a rational commonsense pragmatic manner.

7. Considering the judicial decisions as cited above and the facts of the case the delay in filing of appeal, be condoned and the appeal be admitted for hearing of merits.

8. For these acts of kindness, the appellant assessee shall always be obliged.”

1.2. Considering the application for condonation of delay and the reasons stated therein, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeals within statutory time limit. We, therefore, condone the delay and admit the appeals for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

**I. ITA No. 1213/KOL/2025:**

“1. That the Rejection Order for registration under section 12A(1)(ac)(iii) passed is bad in law as well as on facts of the case.

2. That the Hon'ble Commissioner of Income Tax (Exemption), Kolkata erred in law and on facts in rejecting the application for registration under section 12A(1)(ac)(iii) of the Income Tax Act, 1961, despite the irrevocability clause being already incorporated in the original trust deed (point 18) and duly submitted before the authority

3. That the Hon'ble Commissioner of Income Tax (Exemption) erred in cancelling the registration solely due to non-response to the notice dated 13.12.2024, without verifying that the cited issue (absence of irrevocability clause) was factually incorrect and without considering the documents already submitted or providing a fair opportunity to respond, in violation of natural justice.

4. That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings.”

**II. ITA No. 1214/KOL/2025:**

“1. That the order rejecting the application for registration under section 80G(5) of the Income Tax Act, 1961 is erroneous both in law and on facts.

2. The Hon'ble CIT (Exemption) erred in rejecting the application for 80G(5) registration solely due to non-compliance to the notice dated 13.12.2024,

*without considering the records under his possessions or granting a fair opportunity, which is against the principle of natural justice.*

*3. That the learned Commissioner of Income Tax (Exemptions) has erred on the facts and circumstances of the case and in law by concluding that the Appellant is carrying on particular religious activities.*

*4. That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings.”*

3. We shall 1<sup>st</sup> take, take up the appeal in ITA No. 1213/KOL/2025 relating to registration under section 12A(1)(ac)(iii) of the Act. Before us, it was submitted by the Ld. AR that the assessee's application was rejected by the Ld. CIT (Exemption) by holding as under as the assessee had failed to furnish the reply for clarifications sought by him:

*“The assessee has failed to submit/furnish its reply on the above mentioned query and accordingly the genuineness of the activities of the trust is not established and therefore is not eligible for registration u/s. 12A(1)(ac) (iii) of the Act. Hence, the application filed by the assessee treated as non-maintainable and assessee's application u/s. 12A(1)(ac)(iii) is hereby rejected. The Provisional Certificate issued to the assessee is hereby cancelled w.e.f. the date of its issue.”*

4. It was submitted that proper representation could not be made even though the required evidence was filed before the Ld. CIT (Exemption). It was requested that the matter may be remanded back to the Ld. CIT (Exemption) as no reply could be filed earlier, which can be filed if another opportunity is granted as the required clause was incorporated in the trust deed which was not appreciated by him.

5. We have considered the submissions made. We find that the Ld. CIT (Exemption) sought certain clarifications which were not filed as the reply could not be furnished. The assessee contends that it has evidence in its favour. Therefore, in the interest of justice, it was considered imperative to grant another opportunity to the assessee to make proper



submission before the Ld. CIT(E). 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 allowing the assessee to make proper submission in respect of the queries raised and in accordance with law. Hence, the appeal is partly allowed for statistical purposes.

6. As regards the appeal in ITA No. 1214/KOL/2025 relating to approval under section 80G(5)(iii) of the Act, similar clarification regarding the objects of the trust was sought, which could not be filed. The Ld. AR requested that the assessee has evidence which shall be filed in case the order is remanded back to the Ld. CIT(E). Hence, another opportunity is being allowed to the assessee and the order of the Ld. CIT(E) is 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 to make proper submission in respect of the queries raised and thereafter pass an order on the application filed in accordance with law. Hence, this appeal is also partly allowed for statistical purposes.

7. In the result, both the appeals filed by the assessee are partly allowed for statistical purposes.

**Order pronounced in the open Court on 11<sup>th</sup> August, 2025.**

*Sd/-*

**[George Mathan]**

Judicial Member

*Sd/-*

**[Rakesh Mishra]**

Accountant Member

Dated: 11.08.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Shree Karni Mata Trust, 1<sup>st</sup> Floor, Room No.10, Bikaner Building, 8/1, Lal Bazar Street, Kolkata, West Bengal, 700001.**
2. **CIT (Exemption), Kolkata.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata