

आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 541/Kol/2025

Assessment Year:

Khardah Public Cultural and Welfare Association (PAN: AAAAW 0430 F)	Vs.	CIT(Exemption), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	22.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	11.08.2025
For the assessee / निर्धारिती की ओर से	Shri P. K. Ray, A.R Shri R. C. Halder, A.R Shri T. Nayak, AR
For the revenue / राजस्व की ओर से	Shri P. N. Barnwal, CIT DR

ORDER / आदेश**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the assessee against the order of Commissioner of Income Tax (Exemption)- Kolkata (hereinafter referred to as the Ld. CIT(E)] dated 28.12.2024.

2. It appears from the report of the registry that the appeal has been filed after a delay of 18 days for this the assessee has filed condonation petition. On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee is that the assessee filed an application for approval u/s 80G(5)(iii) in form 10AB the assessee submitted various details in respect to the notices along with supporting documents. The Ld. CIT(E) after going over the submission and explanation made by the assessee has held that macro insurance activities by their nature involved financial and commercial transaction and cannot be categorized as activity that solely promote general public benefit or welfare as required under the Act. Hence the application filed by the assessee treated as non-maintainable and rejected. The provisional certificate issued to the assessee has also been cancelled.

4. Being aggrieved and dissatisfied the assessee preferred an appeal before us.

5. The Ld. A.R challenges the very impugned order thereby submitting that the assessee is a registered society under Registrar of firm, societies and non-trading corporation, W.B. and it is carrying charitable and philanthropy activities. The ld. A.R submits that institution is a purely charitable and voluntary organization but Ld. CIT (E) has wrongly held that activity of conducting macro insurance involved commercial elements. The Ld. A.R filed documentary evidences and submits that the documents

filed by the assessee will prove that the assessee is purely a charitable and voluntary organization. The prayer of AR is that matter be remitted back to the file of Ld. CIT (E) for fresh consideration going over the documentary evidence filed by the assessee.

6. The Ld. D.R though supports the impugned order but did not raise any objection in remitting the appeal back to the file of Ld. CIT(E) for fresh consideration.

7. Upon hearing the submission of the counsel of the respective parties, we have perused the order of Ld. CIT(E) and find that the Ld. CIT(E) has rejected the application filed by the assessee u/s 80G(5)(iii) on the ground that macro insurance activities by their nature involved financial and commercial transaction and cannot be categorized as activity that solely promote general public benefit or welfare as required under the Act. It is pertinent to mention here that the assessee is a registered society and voluntary organization, pecuniary help to poor people and public. The income is not sufficient for running and maintaining the activity of the organization. So, the donation which requires to be received from the member and well-wishers of the institution is very essential for running and maintain for the activity. The Ld. A.R has brought to the notice of the Tribunal on the Gazette of India in which macro insurance agent has been defined. He has also placed following documents:

- i) Registration certificate along with memorandum of Association and Regulation of Assasination with alteration in Memorandum / Regulation
- ii) Registration Certificate u/s 12A and 12AB i.e. Form 10AC(new Provision under Finance Act, 2020)
- iii) Approval of Exemption Certificate u/s 80G(5)(vi) and Clause (iv) of First proviso to Sub-section (5) of Section 80G i.e. Form 10AC (new Provision under Finance Act, 2020)
- iv) Registration of DARPAN
- v) Statutory Audited Accounts for the year ended on 31.03.2022, 31.03.2023 and 31.03.2024.
- vi) Income Tax Return Acknowledgement
- vii) List Bank and Governing Body list

8. Keeping in view, the averments made by the Ld. A.R and having gone through the order passed by the Ld. CIT (E), we find that the issue of whether macro finance is a commercial activity or is very commercial activity of the charity could have to be decided by the Ld. CIT(A) at its own level keeping in view and going over the documents filed by the assessee. Accordingly, we set aside the order passed by the Ld. CIT(E) and remit the appeal of the assessee back to the file of Ld. CIT(E) for fresh consideration with a direction to pass a fresh order after being heard to the assessee and going over the documents and judicial pronouncements on this issue.

In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 11th August, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 11th August, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Khardah Public Cultural and Welfare Association, at Khardah, Rashpur, Amta, S.O. Howrah , Tulsiberia, West Bengal, India-711401.
2. Respondent – CIT(Exemption), Kolkata
3. Ld. PCIT- , Kolkata
4. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata