

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, 'DB': AMRITSAR**

BEFORE SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

ITA No.257/ASR/2024

[Assessment Year: 2023-24]

Sant Baba Bodha Nand Gaushalla Committee/AOP (Trust) C/o-J. K. Gupta, Advocate 4702, Hospital Bazar, Bathinda, (Punjab)-151005	Vs	The CIT(Exemptions), Chandigarh, Aayakar Bhawan, Sector-17-E, Chandigarh-160017
PAN-AAITS0667H		
Appellant		Respondent

Appellant by	Shri J. K. Gupta, Adv
Respondent by	Sh. M.S. Nethrapal, CIT-DR

Date of Hearing	26.05.2025
Date of Pronouncement	22.08.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Exemption), Chandigarh (hereinafter referred to 'ld. CIT(E)') dated 16.03.2024.

2. Brief facts of the case:- The application for registration of the trust u/s 80G(5) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') was filed on 29.09.2023 by the assessee in Form No.10AB under Rule 11AA of the Income Tax Rules, 1962 (hereinafter referred as 'the Rules). The list of dates in this case and the description of the activities are detailed as under:-

Sr. No.	Date	Description
1	29.09.2023	The application for registration of the trust u/s 80G(5) of the Income Tax Act, 1961 was filed on 29.09.2023 by the assessee in Form No.10AB under Rule 11AA of the Income Tax Rules, 1962
2	27.10.2023	The Assessing Officer requested to specify the date of commencement of activities by the trust/society as well as details documents is mentioned in the said notice
3	21.12.2023	The assessee submitted its reply vide letter dated 21.12.2023 along with Annexure, according to which the assessee had commenced its activities on 25.06.2007. From the perusal of the reply dated 21.12.2023, it was noticed by the Assessing Officer that the provisional approval in Form 10AC was issued on 04.04.2022 under clause (iv) of the first proviso to sub-section 5 of section 80G of the Act for the period commencing from 04.04.2022 to AY 2024-25.
4	09.01.2024	The assessee was intimated by the Assessing Officer vide notice dated 09.01.2024 that apparently, they had not filed the present application under Clause (iii) of first proviso to sub-section (5) of section 80G of the Act in Form No. 10AB, within the due date mentioned under Clause (iii) of first proviso to sub-section (5) of section 80G of the Act and therefore, the assessee was requested to explain as to why the present application filed under Clause (iii) of first proviso to sub-section (5) of section 80G of the Act in Form No.10AB should not be treated as not filed within the due date specified in the Act and why the same should not be rejected as non-maintainable.
5	10.01.2024	In response, the assessee submitted that with reference to above, it is respectfully submitted that society is maintaining and running Gaushalla under the name Sant Baba Bodha Nand Gaushalla situated at Village Ramdittewala, Tehsil & Distt. Mansa. It was further submitted that they were busy in collecting donations for gaushalla from general public on occasion of Lohri and Sangrand celebrations days from 9 th January to 25 th January and requested to adjourn the hearing for 20-25

		days.
6.	16.03.2024	The Id. CIT(E) observed that the assessee did not file its submissions in respect of notice dated 10.01.2024 and therefore the matter needed to be decided on the basis of facts and material available on record.

2.3. The Ld. CIT(E) based on the above facts observed that the activities of the assessee had commenced on 25.06.2007 and the present application filed in Form No.10AB under Clause (iii) of first proviso to sub-section (5) of section 80G of the Act has not been filed within the time limit prescribed therein and also the assessee has not filed its application within the extended time limit provided by CBDT vide its circular No. 12 of 2021 dated 25.06.2021, circular No.16 of 2021 dated 29.08.2021 and circular No. 8 of 2022 dated 31.03.2022 which were discussed by the Id. CIT(E) in Para 8 of this order. The Ld. CIT(E) therefore, held that the above application was liable to be rejected as non-maintainable, without going into the merits. In this regard, the Id. CIT(E) placed reliance on the decision of the Hon'ble Kolkata Tribunal in the case of Bishnupur Public Education Institute, reported in 139 taxmann.com 121, wherein the Hon'ble Tribunal while adjudicating the issue of similar provisions of due date u/s 10(23C) of the Act after placing reliance on various decisions of the Hon'ble Supreme Court and that of Hon'ble High Court held as under:-

"5. The Hon'ble Madras High Court in the case of All Angels Educational Society (supra) while considering the issue whether the Id. CIT (Exemption) has power to condone the delay in filing application for grant of approval under section 10(23C) or not, has

considered the judgments of Hon'ble Supreme Court in the case of State of U.P v. Harish Chandra AIR 1996 SC 2173 as well as Union of India v. Kirloskar Pneumatic Co. Ltd. 1996 taxmann.com 575 (SC) and held that where there is no provision to empower the statutory authority to condone the delay, than the authority cannot condoned. The finding of the Hon'ble Court in Paragraphs no. 15 & 16 worth to note, which read as under

"15. However, considering the legal position that there is no power to condone the delay in filing an application under section 10(23C) of the Act, this Court is not inclined to exercise its extraordinary jurisdiction to condone the delay.

However, this Court is inclined to give appropriate direction to the respondent to consider the petitioner's application as an application for the subsequent assessment year, namely, 2013-2014 in accordance with law. Such direction is issued considering the peculiar facts and circumstances of the case and that the petitioner could not have made an application for the subsequent assessment year 2013-2014, since their application for assessment year 2012-2013 was still pending consideration and the impugned order came to be passed only on 13-11-2013. The respondent is at liberty to consider the amended objectives of the petitioner Trust.

16. Accordingly, the writ petition is partly allowed and the finding rendered by the respondent that the petitioner's application cannot be considered as the same is time barred is affirmed and the finding with regard to objectives of the Society by respondent holding that the Society cannot be said to be solely for education purpose is set aside. Consequently, the matter is remanded back to the respondent for fresh consideration and the petitioner's application is directed to be considered for the assessment year 2013-2014 in accordance with law and while doing so, may consider the amendments made to the objectives of the petitioner Trust. No Costs. M.P. No. 1 of 2014 is closed".

6. Similar is the view of Hon'ble Andhra Pradesh High Court propounded in Aurora Educational Society case (supra). The Hon'ble Orissa High Court has also considered this aspect in the case of Roland Educational & Charitable Trust (supra). The concluding paragraph of the judgment is worth to note in this aspect, which read as under :—

"Be that as it may, we are here concerned whether in the absence of any statutory provision to condone the delay in presenting the

application under section 10(23C)(vi), the Chief Commissioner of Income-tax can exercise any such power'.

7. The adjudicating authorities under the Income-tax Act are quasi judicial authorities. They can grant approval with retrospective effect if such mechanism is provided in the Act. There is no such provision nor there is any power to condone the delay after considering the reasonable reasons. A reasonable cause can be taken into cognizance for condoning the delay, if such provision is provided in the Act while considering any issue for adjudication. Therefore, considering the above proposition, we are of the view that ld. CIT (Exemption) has rightly rejected the application of the assessee for grant of approval under section 10(23C)(vi) of the Income-tax Act. All these three appeals are rejected.

8. In the result, all the appeals of the assessee are dismissed."

2.2. In view of the above factual matrix and discussion, the Ld. CIT(E) held that the present application filed in Form 10AB under clause (iii) of first proviso to sub-section 5 of section 80G of the Act as not maintainable and rejected the same.

3. Aggrieved with the order of the Ld. CIT(E), the assessee is in appeal before us by raising the following grounds of appeal:-

- 1. That on the facts and in the circumstances of the case and in law, the learned CIT(Exemption) has erred in rejecting the application for 80G without checking its online record which the assessee has filed during the course of hearing.*
- 2. That the assessee had got registration u/s 80G from 04.04.2022 to assessment year 2024-25 for the first time. So, the renewal of registration should have been allowed but the same was rejected on 16.03.2024.*
- 3. That on the facts and in the circumstances of the case and in law, the learned CIT(Exemption) has erred in denying the renewal of registration u/s 80G(5) of the Income tax Act, 1961 as the CIT(E) have not stated the correct facts. It is*

case of renewal of new 80G after three years not renewal of old 80G registration under old regime.

4. *That on the facts and in the circumstances of the case and in law, the learned CIT(Exemption) has erred in relying on the various judgments while rejecting the registration u/s 80G of the Act which are not relevant to the facts of the case and even the same were not confronted to the assessee during the renewal proceedings.*
5. *That on the facts and in the circumstances of the case and in law, the learned CIT(Exemption) was only required to see if there is any change in the objects which were charitable for the last 20 years or so and whether the trust is genuine and nothing more.*
6. *That no reasonable opportunity was given to the assessee to meet the case. So, it is against natural law and justice. So, the order of rejection is liable to be quashed.*
7. *That any other relief may kindly be granted to the assessee to whom it is found entitled at the time of hearing of appeal.*

4. During the hearing before us, the Id. AR supported the grounds of appeal and requested that the matter may be set-aside to the file of the Ld. CIT(E) with a direction to him to allow one more opportunity to present its case before him.

5. The Id. Sr. DR supported the orders of the authorities below.

6. We have heard both the parties and perused the material available on record. In ground no.1, it is submitted by the assessee that the Id. CIT(E) has erred in rejecting the application for 80G of the Act without checking its online record which the assessee had filed during the course of hearing. Further, in ground no.5, it was submitted that the Id. CIT(E) was only required to see if there is any change in the objects which were charitable for the last twenty years or so and whether the trust is genuine and nothing more. It was further

submitted that no reasonable opportunity was given to the assessee to meet the case, so it was against the natural law and justice,

6.1. We note that the Id. CIT(E) noted that the assessee society is maintaining and running Gaushalla under the name Sant Baba Bodha Nand Gaushalla situated at Village Ramdittewala, Tehsil & Distt. Mansa w.e.f. 25.06.2007. Further the assessee in its grounds of appeal submitted that reasonable opportunity was not provided to the assessee by the Id. CIT(E) before rejecting the application. Further, the Id. CIT(E) has not made any comments about the request letter dated 10.01.2024 of the assessee seeking adjournment of the case for 20-25 days as they were busy in collecting donations for gaushalla from general public on occasion of Lohri and Sangrand celebrations days from 9th January to 25th January.

6.2. Therefore, in the interest of justice, we remit back the matter to the file of the Ld. CIT(E) to allow one more opportunity to the assessee to file its submissions and explanation if any for the delay in filing the application for registration u/s 80G(5) of the Act filed as stated by the Ld. CIT(E) and to decide the matter afresh after considering the reply of the assessee and as per law. In this regard, the assessee is at liberty to submit any document/submission in respect to their application for registration of the trust u/s 80G(5) of the Income Tax Act, 1961 filed on 29.09.2023 by the assessee in Form No.10AB under Rule 11AA of the Income Tax Rules, 1962.

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

Order pronounced as per Rule 34(4) of the ITAT Rules, 1963 on 22nd August, 2025.

Sd/-
[UDAYAN DAS GUPTA]
JUDICIAL MEMBER
Dated 22.08.2025.
Shekhar

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(E)
4. DR

Asst. Registrar,
ITAT, Amritsar