

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1476/Kol/2025
Assessment Year: 2026-27**

**Shri Sanatan Dharma Panchayat High School Mandawa.....Appellant
Block-A-11, 4th Floor, 234/3A AJC Bose Road,
Kol - 700020.
[PAN: AAETS8043F]**

vs.

CIT (Exemption), Kolkata.....Respondent

Appearances by:

Shri Sanjeev Kadel, CA, appeared on behalf of the appellant.

Shri Sanat Kr. Raha, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 10, 2025

Date of pronouncing the order : September 12, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 21.06.2025 of the Commissioner of Income Tax (Exemption), Kolkata [hereinafter referred to as 'CIT(E)'] rejecting the application of the assessee for final approval as per the provisions of section 80G(5)(iii) of the Income Tax Act (hereinafter referred to as the 'Act').

2. The brief facts of the case are that the assessee had been granted provisions provisional approval u/s 80G(5)(iv) of the Act in Form No.10AC for a period from A.Y 2023-24 to A.Y 2025-26. An application for final approval of the trust u/s 80G(5)(iii) of the Act was filed on 05.12.2024 in Form No.10AB. Thereafter, a notice was issued to the assessee requesting therein to furnish details on the activities carried out by the assessee and in response to the said notice, the assessee filed certain details/documents before the ld. CIT(E). The ld. CIT(E) rejected

the application filed in Form 10AB on the ground that Commissioner of Income Tax has no power to condone the delay in filing application in Form No.10AB for registration u/s 80G after due date.

3. Aggrieved and dissatisfied, the assessee filed the present appeal before us. The ld. AR challenges the impugned order thereby submitting that the assessee has already granted application for regular approval u/s 12A by the ld. CIT(E) by condoning the delay of in filing Form 10AB but the ld. CIT(E) rejected the same in granting registration u/s 80G also filed in Form No.10AB by stating that he has no power condone the delay. The ld. AR cited a decision passed by Hon'ble High Court of Madras vs. CBDT reported in [2024] 161 taxmann.com 209 (Madras). The ld. AR has submitted that when regular application for granting registration u/s 12A has been accepted by condoning the delay, and there being no change in the reasons cited in the condonation petition in granting regular registration u/s 80G of the Act, the ld. CIT(E) ought to have been considered the same likewise.

4. Contrary to that, the ld. DR supports the impugned order.

5. Upon hearing the submissions of the counsels of the respective parties, the following facts have been emerged:

(a) the assessee has filed an applied for approval u/s 12A for registration on 31.01.2023 and provisional registration has been granted on 28.02.2023.

(b) the assessee has filed application for regular approval u/s 12A in Form NO.10AB and the approval had been granted.

(c) the assessee has filed an application for approval of registration u/s 80G on 02.03.2023 and the provisional approval has been granted on 09.03.2023

(d) the assessee has filed application for regular approval u/s 80G on 05.12.2024 in Form No.10AB with condonation of delay and reasons for such delay are identical as filed u/s 12A but the same has been rejected by the ld. CIT(E).

5.1 Having gone through the judgment cited by the ld. AR, we find that in the aforesaid judgment, the Hon'ble High Court of Madras has allowed a writ petition by holding as under:

“Section 80G of the Income-tax Act, 1961 - Deductions - Donation to certain funds, charitable institutions, etc. (Approval under sub-section (5)) - CBDT, vide Circular No. 8 of 2022 dated 31-3-2022, extended time limit with respect to both existing trusts and new trusts for registrations under sections 10(23C), 12A and 80G(5) - However, CBDT, while extending time limit further vide impugned Clause 5 (ii) of Circular No. 6 of 2023, dated 24-5-2023, did not grant extension to new trusts for filing forms for application of registration under clause (iii) of first proviso to section 80G(5) - However, revenue could not provide any rationale for such a classification - Even though new trusts as well as existing trusts had no right to demand for extension of time as a matter of right, when revenue had thought it fit to extend time, considering hardship, there was no material placed before Court, nor any reasoning as contained in impugned order that new trusts did not face hardship in respect of filing of application under section 80G(5) alone- Further, leaving out clause in respect of section 80G(5) alone, that too only in respect of new trusts did not in any manner relate to object sought to be achieved by impugned circular nor did it provide any basis for discrimination/classification - Differential treatment was not based on any substantial distinction that was real and pertinent to object of circular - Whether therefore, impugned clause 5(ii) of circular No. 6/2023, dated 24-5-2023 was arbitrary and violative of article 14 of Constitution of India and accordingly, would be ultra vires Constitution - Held, yes [Paras 6.7 and 7] [In favour of assessee]”

5.2 Keeping in view the above facts and considering the judgment passed by the Hon'ble High Court of Madras, we are inclined to restore the appeal of the assessee before the ld. CIT(E) with a direction to consider the application submitted by the petitioner for registration u/s 80G as within time as the petitioner has already filed condonation petition in granting application u/s 12A and reasons for the delay were

identical. The Id. CIT(E) will consider the application for condonation in granting registration u/s 80G and pass order on merits.

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

Kolkata, the 12th September, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 12.09.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches