

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI**

**BEFORE JUSTICE (RETD.) C V BHADANG, PRESIDENT &  
MS PADMAVATHY S, AM**

**I.T.A. No. 4540/Mum/2025  
(Assessment Year: 2025-26)**

<b>Gaia Conservation Foundation,</b> 1 <sup>st</sup> Floor, Metro House, MG Road, Marine Line, Mumbai-400020. <b>PAN: AADCG4867B</b>	Vs.	<b>CIT (Exemption),</b> 601, 6 <sup>th</sup> Floor, Cumballa Hill, MTNL TE Building, Pedder Road, Dr. Gopalrao Deshmukh Marg, Mumbai-400026.
<b>Appellant)</b>	:	<b>Respondent)</b>

**Assessee by** : Shri Niraj Sheth - Advocate

**Revenue by** : Shri Arun Kanti Datta, CIT-DR

**Date of Hearing** : 17.09.2025

**Date of Pronouncement** : 10.10.2025

**ORDER**

**Per Padmavathy S, AM:**

This appeal by the assessee is against the order of the Commissioner of Income Tax (Exemptions), Mumbai [In short 'CIT(E)'] dated 17.06.2025 rejecting the application made by the assessee for registration under section 80G of the Income Tax Act, 1961 (the Act).

2. The assessee is a non-profit company registered under section 8 of the Companies Act, 2013. The company was granted provisional registration under section 80G of the Act valid from 15.10.2021 to Assessment Year (AY) 2024-25. In accordance with clause (iii) of the 1<sup>st</sup> proviso to section 80G(5) the assessee was required to file application for regular registration at least six months before the expiry of provisional registration or within six months of commencement of activities whichever is earlier. The assessee while filing the relevant Form inadvertently had selected sub-clause (ii) instead of sub-clause (iii) to the 1<sup>st</sup> proviso to section 80G(5). Further there has been a delay in filing the application by 24 days before the CIT(E). The application was rejected for the reason that the assessee has filed the Form under incorrect section. The assessee is in appeal against the order of the CIT(E).

3. We heard the parties and perused the material on record. During the course of hearing the Id. AR submitted that the CIT(E) called for various details and the assessee has submitted all the relevant details as called for. The Id. AR further submitted that the assessee was not informed that the application has been inadvertently made under wrong section therefore there is a violation of principle of nature justice. From the perusal of record, we notice that the CIT(E) vide letter dated 17.03.2025 and letter dated 30.05.2025 called on the assessee to furnish various details. We further notice that the assessee has filed a reply to the details called for and has also submitted that mentioning of wrong section is due to inadvertent error on the part of the assessee. We also notice that the CIT(E) has rejected the application without mentioning anything regarding the responses submitted by the assessee but has merely stated that the assessee has filed the application under wrong section. The relevant observations of the CIT(E) in this regard are extracted below –

*3. On perusal of the Form 10AB filed by the assessee it was observed that the assessee has applied under Clause(ii) of first proviso to sub-section (5) of section 80G which is valid only for trusts already having regular approval for five years and is seeking renewal of regular approval which is due to expire. The assessee, having provisional registration for three years, does not qualify to make the application under clause(ii) of first proviso to sub-section (5) of section 80G. Thus, the application for registration in Form 10AB filed by the assessee is not allowable on the grounds of application filed under wrong section. However, following the principles of natural justice, an opportunity was provided to the applicant Trust by issuing show cause notice having DIN Notice No. ITBA/EXM/F/EXM43/2025-26/1076590095(1) dated 30.05.2025 to show cause why the application in Form 10AB should not be rejected on the grounds of application filed under wrong section. The applicant Trust has made its response vide letter dated 04.06.2025, however, the applicant has not offered any comment on why the application filed under wrong section. In the absence of any appropriate response from the applicant Trust with respect to the show cause notice, this application is hereby rejected on the ground of application filed under wrong section.*

4. It is noticed from the above findings that the CIT(E) has not examined the various details filed by the assessee and has not considered the submission of the assessee that wrong mentioning of section is an inadvertent error. In our considered view, mentioning of a wrong section inadvertently is not an illegality but is a rectifiable mistake. The assessee is already holding a provisional registration and rejecting the application for final registration for a mere technicality is not acceptable more so when the assessee has otherwise complied by filing the required details. The consistent view expressed by various judicial forums has been that the registration under section 12A or under section 80G should not be rejected on the only ground of mentioning of wrong section which is a rectifiable mistake by calling on the assessee to correct the same. It is relevant to mention here that though there is a delay of 24 days in filing the application, the CIT(E) has not taken any adverse view in this regard while rejecting the application. Accordingly we direct the CIT(E) consider the application as being filed on time under the correct section and consider the eligibility of the assessee

for registration under section 80G in accordance with law based on merits of the documents / details filed. Needless to say that the assessee be given a reasonable opportunity of being heard. It is ordered accordingly.

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

*Order pronounced in the open court on 10-10-2025.*

**Sd/-**  
**(JUSTICE (RETD.) C.V. BHADANG)**  
**President**

*\*SK, Sr. PS*

**Sd/-**  
**(PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**