



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT  
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
&  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 266/RJT/2025  
(निर्धारणवर्ष / Assessment Year: (2023-24))**

G. C. Foundation Survey No. 558/2558, P1 558 P2, B/H Real Ceramics, Old Ghuntu Road, Thorala, Rajkot - 363641	<b>Vs.</b>	CIT(Exemption) Income Tax Office, Vejalpur, Rajkot-36001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAETG0610J</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Sunny Mehta, Ld. AR  
Respondent by : Shri Sanjay Punglia, Ld. CIT(DR)  
**Date of Hearing : 20/08/2025**  
**Date of Pronouncement :22/10/2025**

**आदेश / ORDER**

**PER, DINESH MOHAN SINHA, JM:**

This appeal is filed by the Assessee as against the Rejection order dated 22.04.2025 passed by the Commissioner of Income Tax (Exemption), Ahmedabad denying Registration under section 80G(5)(iii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The Grounds of appeal raised by the assessee are as followed:

1. The Ld. CIT(E) erred in law by rejecting the application under section 80G(5)(iii) merely on the grounds of delay in filing of application for registration.
2. The Ld. CIT(E) erred in law by not condoning the delay in filing of application under section 80G(5)(iii) resulting in violation of principles of natural justice.



- 3. The Ld. CIT(E) erred in law by not adjudicating the application on merits resulting in denial of substantial justice.*
- 4. The Ld. CIT(E) erred in facts by not considering that the delay was on account of rejection of original application due to technical difficulties.*
- 5. The appellant craves leave to add, amend, and alter any or withdraw any grounds of appeal at or before the time of appeal hearing.*

3. Brief facts of the case that the trust commenced its activities with effect from 25th September, 2023. The application for provisional registration under section 80G(5)(iv) was filed in form 10A as on 28-12-2022 which got approved on 19-01-2023 which was valid till AY 2025-26. Subsequently, application in Form 10AB was filed under section 80G(5)(iii) as on 30-05-2024 which was rejected as on 12-11-2024 due to rejection of application under section 12A. The reason for rejection of application under section 12A was wrong selection of clause under the said application and this was due to technical difficulties faced for filing registration applications online with the website of the Department. The fact required to be highlighted from the above information is that such applications were duly filed within the extended time limit i.e. 30-06-2024 as per Circular No. 07/2024 dated 25-04-2024. The appellant trust file fresh applications with correct clause in form 10AB under both the sections. The form 10AB under section 80G(5)(iii) was filed as on 18-11- 2024. This resulted in delay in filing of application as per the provisions of the section. The registration has been duly granted under section 12AB(1)(b) against the application in form 10AB filed by the assessee. However, only application under section 80G(5)(iii) was rejected on account of technical ground being delay in filing of application and that there were no powers with Ld. CIT(E) to condone such delay.

4. That the assessee has filed an appeal to challenge the validity of order of the Ld. CIT(E) before us on 22.04.2025.



5. During the course of hearing, Ld. AR submitted that an opportunity should be give to assessee to explain the case before the authority.

6. On the contrary, the Ld. DR for the revenue, relied on the judgment of Ld. CIT(E). However, Ld. DR did not objected the prayer of the Ld.AR of the assessee.

7. We have heard both the parties and perused the material available on record. We note that on perusal of annual audited accounts for F.Y. 2023-24, it is observed that the assessee is already engaged in financial transactions since F.Y 2023-24 and hence, its activities are already commenced. The assessee has accepted that the application filed is delayed and requested for condonation of delay in filing Form 10AB. The time limits prescribed in section 80G(5) of the Act are mandatory in nature and the Commissioner of Income Tax has no power to condone the delay in filing application in Form No. 10AB. The powers are vested with CBDT only. That the present application in Form No. 10AB has not been filed within the time limit prescribed and the same was rejected as non-maintainable without going into the merits of the case and the provisional approval issued in Form 10AC stands cancelled. That the application 10AB was not adjudicated on merit and the application was rejected by the Ld.CIT(E). We relied on the decision taken in the recent case of Shri Shardagram Alumni Education & Charitable Trust vs. CIT (Exemption), Ahmedabad (ITA No. 175/RJT/2024), the Hon'ble ITAT, Rajkot and condoned the delay in filing form 10AB under section 80G(5) of the Act, despite the application being beyond the prescribed time limit. The Tribunal held that the delay was neither deliberate nor intentional and emphasized that procedural lapses should not defeat substantive justice. The Tribunal set aside the rejection order and remanded the matter back to



CIT(E) for fresh adjudication on merits. This reinforces the principle that approval under Section 80G should not be denied on technical grounds if the trust is otherwise eligible.

i. In case, Lothada-Piplana-Padavala Trust vs. CIT(E), Rajkot, the assessee was a charitable organization run by senior citizens who were unfamiliar with the e-filing procedures and digital notices issued by the income tax portal. The CIT(E) rejected the application under both Sections 12AB and 80G on the ground of delay and non-compliance. On appeal, the Hon'ble Rajkot ITAT acknowledged the technological hardship faced by aged individuals and held that procedural delays caused due to such genuine difficulties should not deprive a bona fide applicant of a statutory benefit. The Tribunal remitted the matter back to CIT(E) to reconsider the application on merits, thus showing judicial sensitivity to practical barriers in digital compliance.

ii. In case of The Old Rkcians Association vs. CIT(E), Ahmedabad [ITA No. 265/Rjt/2023], the CIT(E) rejected the assessee's Form 10AB application under Section 80G(5)(iii) solely on the ground of delay, stating he had no power to condone it. The ITAT, Rajkot held that the application was actually filed within time, and even if there was delay, the CIT(E)'s stand was incorrect. The Tribunal set aside the rejection and remanded the matter for fresh decision on merits.

8. In the above facts and circumstances of the case, we are of the view that in the interest of justice, an opportunity should be given to the assessee to present his case before the Ld. CIT(E). We set aside the order of Ld. CIT(E) and remit the matter back to the file of Ld. CIT(E) for fresh adjudication on merit after giving due opportunity to the assessee of being heard.



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

**Order pronounced in the open court on 22/10/2025.**

**Sd/-**

**(Dr. Arjun Lal Saini)**  
**Accountant Member**

Rajkot

दिनांक/ Date: 22/10/2025

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

**Sd/-**

**(Dinesh Mohan Sinha)**  
**Judicial Member**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot