

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2860/PUN/2024

Jeevan Vidyadan Shikshan V Bahuuddeshiy Sevabhavi Sanstha, Shram Safalya, Shelpada, Utavali, Vikaramgad, Utawali B.O. Shelpada, Thane-421303 PAN : AAATJ9297Q	Vs.	CIT(Exemption), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Kunik Soni
Department by :	Shri Amol Khairnar
Date of hearing :	29-10-2025
Date of Pronouncement :	31-10-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 09.11.2024 of the Ld. Commissioner of Income Tax (Exemption), Pune **["CIT(E)"]** whereby he rejected the application of the assessee filed before him in Form No. 10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961 (**the “Act”**) on 27.06.2024.

2. The assessee has raised the following grounds of appeal :

“1. Order passed by the Learned Commissioner of Income-Tax, Exemption, Pune U/s 80G(5)(iii) dated 09/11/2024 [DIN: ITBA/EXM/F/EXM45/2024-25/1070222822(1)], Application No: CIT EXEMPTION, PUNE/2024-25/12AA/13692] is Bad in law as:

(a) it seems that the Judicial Mind has not been applied.

(b) the Proper Reasonable Opportunity of being Heard has not been given.

(c) Rejected for the want of Note on the Activities of the Trust and therefore the provisional registration granted U/S 80G(5)(iii) vide URN: AAATJ9297QE20206 dated 27/05/2021 may please be restored.

2. The appellant craves to leave, add, alter, amend and/or delete any of the above referred grounds of appeal at the time of the hearing of the appeal.”

3. The brief facts are that on receipt of the assessee's application filed in Form No. 10AB under clause (iii) of first proviso to section 80G(5) of the Act along with annexures thereto, with a view to verify the genuineness of the activities of the assessee and fulfillment of the conditions laid down in clauses (i) to (v) of section 80G(5) of the Act, the Ld. CIT(E) issued notice on 26.07.2024 which was duly served through ITBA portal/email requesting the assessee to upload certain information/clarification such as date of commencement of activity, date of expiry of provisional approval, details of any other law applicable for achievement of objectives and the proof of compliance of said law, proof of identity of main trustees/directors /trustees, year-wise list of donations received, note on activities carried out etc. The compliance was sought by 12.08.2024. Since the assessee failed to respond, another notice was issued and duly served on the assessee on 05.10.2024, requesting it to show cause as to why the application should not be rejected and why the approval granted u/s 80G(5) of the Act should not be cancelled seeking the compliance by 14.10.2024. As the assessee once again failed to furnish compliance, the Ld. CIT(E) concluded that the assessee is not having any supporting documents/evidence to submit. Having been unable to draw any satisfactory conclusion about the genuineness of the activities of the trust, the Ld. CIT(E) proceeded to pass the impugned order rejecting the assessee's application u/s 80G(5) of the Act by observing as under :

“5. The information / details were called for under the provisions of sub-clause (a) of clause (ii) of second proviso to section 80G(5) of the Income Tax Act, 1961. These are the basic details required to ascertain the overall nature of the activities of the assessee and are directly relevant to the present proceedings. However, the assessee has failed to comply despite giving sufficient opportunities as discussed above, including an opportunity of being heard.

6. Thus, the assessee has failed to furnish the details called for under the provisions of sub-clause (a) of clause (ii) of second proviso to section 80G(5) of the Income Tax Act, 1961 to verify the genuineness of activities of the trust or institution and fulfilment of conditions laid down in clauses (i) to (v) of Section 80G(5) of the Act.

7. In absence of the compliance to the above requirement, it is not possible to arrive at any conclusion about the genuineness of activities of the assessee and fulfilment of conditions laid down in clauses (i) to (v) of Section 80G(5) of the Act.

8. It is clear from the above that the assessee was given sufficient opportunity to comply, but it has not complied to the same. It seems that the assessee is not having any supporting documents / evidence to submit. The assessee has failed to comply with the provisions of sub-clause (a) of clause (ii) of second proviso to

section 80G(5) of the Income Tax Act, 1961 and hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee and fulfilment of conditions laid down in clauses (i) to (v) of Section 80G(5) of the Act and has left no alternative but to reject the application.

9. Without prejudice to the above, the provisions of clause (iii) of first proviso to section 80G(5) of the Act are applicable to a trust / institution which is provisionally approved under section 80G(5)(vi) of the Act. As per the provisions of Rule 11AA(2)(e) of the Income Tax Rules, 1962, the copy of existing order of approval was required to be submitted along with the application itself. Thus, the assessee was required to submit the copy of order of provisional approval u/s 80G(5) (vi) read with clause (iv) of first proviso to section 80G(5) of the Income Tax Act, 1961. The assessee was specifically requested vide the initial notice to submit such copy of provisional approval. However, the assessee has not submitted copy of provisional approval under section 80G(5) (vi) of the Income Tax Act, 1961. The non-submission of copy of order of provisional approval u/s 80G(5) establishes the fact that the prerequisite of the provisions of clause (iii) of first proviso to section 80G(5) of the Act for approval u/s 80G(5) of the Income Tax Act, 1961 is not fulfilled.

10. In view of the above, the application filed by the assessee is hereby rejected.”

4. Aggrieved, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

5. The Ld. Counsel for the assessee submitted that the assessee could not respond to the above said notice(s) issued by the Ld. CIT(E) on account of the mistake on the part of the employee of the trust. He submitted that the assessee has already been granted registration under section 12A of the Act as well as provisional registration u/s 80G of the Act. He accordingly submitted that in the interest of justice, the assessee should be given an opportunity to substantiate its case by filing the requisite details before the Ld. CIT(E).

6. The Ld. DR had no objection the above request of the Ld. AR.

7. We have heard the rival arguments made by both the sides and perused the material available on records. It is an admitted fact that the assessee did not respond to the aforesaid notices issued by the Ld. CIT(E) for which he rejected the application filed by the assessee for grant of permanent approval under section 80G of the Act. It is the submission of the Ld. AR that the non-compliance to the said notices were not intentional but it was due to the mistake of the employee of the trust. It is also his submission that given an opportunity, the assessee is in a position to substantiate its case by filing the requisite details/documents before the Ld. CIT(E) to his satisfaction. Considering the totality of the facts and in the circumstances of the case, we

deem it fit and proper in the interest of justice and fair play, to set aside the order of the Ld. CIT(E) and restore the matter back to his file with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details/documents/evidence and decide the same on merits as per fact and law. The assessee is also hereby directed to appear and make his submissions before the Ld. CIT(E) on the appointed date without seeking any adjournment under any pretext, unless required for the sufficient cause, failing which the Ld. CIT(E) is at liberty to pass appropriate order as per law. We order accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 31st October, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 31st October, 2025.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune