

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER

ITA No. 447/Jodh/2024
(Assessment Year – N.A.)

Sukhad Jeevan Sansthan, Opposite Fire Brigade Office, Bhrahmpuri, Senth, Chittorgarh – 312025. PAN No. AAKTS5277P	Vs.	CIT (Exemption) Jaipur.
Assessee by	Shri Gopal Krishan Mundra, CA	
Revenue by	Smt. Runi Pal, CIT(DR)	
Date of Hearing	07.10.2025.	
Date of Pronouncement	30.10.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeals by the assessee is directed against the order of the Commissioner of Income Tax (Exemption), Jaipur [hereinafter referred to "the CIT Exemption"] dated 29.03.2024, challenging therein rejection of its application filed in Form 10AB for approval u/s 80G(5) of the Income Tax Act (In short 'the act') as non- non-maintainable with cancellation of the provisional registration.

2. After hearing both the sides and perusal of record, we find that the Ld. CIT exemption has rejected the applications filed by the assessee in Form No. 10AB seeking approval u/s 80G of the IT Act, 1961 on the ground of much delay beyond



6 month, of the commencement of its activities in violation of the statutory time limit prescribed under the act, for by observing as under:

In response to the above, the applicant furnish reply on 26.03.2024 wherein at point No.05, the commencement of activity was mention 16.12.2010. Hence, it is evident from the above that the applicant was conducting its activities from 16.12.2010 itself and has failed to justify the delay of more than six months between commencement of activities and in filing of application for regularization of provisional registration. Moreover, from perusal of other details available on records it is observed that the assessee/applicant has filed Form 10AB u/s 80G of the Act on 30.09.2023 i.e. after a delay of more ha six months.

Since, the applicant/assessee has filed the present application in Form No. 10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the Act, so it is essential to analyse the provisions of first proviso to sub-section (5) of section 80G of the Act, as it stands today, which stipulates as under:

Provided that the institution or fund refer to in clause (vi) shall make an application in the prescribed form and manner to the principal commissioner or commissioner, for grant of approval-

- (i) where the institution or fund is approved under clause (vi) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2021, within three months from the first day of April, 2021;
- (ii) where the institution or fund is approved and the period of the such approval is due to expire, at least six months prior to expiry of the said period;
- (iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;

**[in any other case, where the activities of the institution or fund have-



1. not commenced, at least one month prior to the commencement of the previous year relevant to assessment year from which the said approval is sought:
2. commenced and where no income or part thereof of the said institution or fund has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause(vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,].

****The said clause (iv) of first proviso to sub-section (5) of sec. 80G of the Act has been substituted by the finance Act 2023, w.e.f. 01/10/2023 prior to said the substitution, the said clause (iv) of the first proviso to sub-section (5) of sec. 80G of the Act read as under.**

"(iv) in any other case at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought.,"

2.2. From the above, it is evident that the provisions of clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act prescribed various time limit within which the applicant/assessee is required to file application fo approval of Trust]Institution depending upon the various circumstances mentioned therein, In the present case, the applicant/assessee is provisionally registered u/s clause (iv) of first proviso to sub-section (5) of sec. 80G of the Act and therefore, the applicant/assessee was required to file application in Form No. IOAB u/s clause (iii) of first proviso to subsection (5) of sec. 80G of the Act within the time period of at least six months prior to expiry of period of the provisional approval or within six months of commencements of its activities, whichever is earlier. From the provisions of clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act, it is evident that the time limits prescribed therein is mandatory and the Commissioner of Income Tax has no power to condone the delay in filing application in Form No. 10AB.

The said legal position further gets fortified by the fact that the CBDT on multiple occasions had extended the time limit in filing the application in Form No. 10A and/or 10AB as under.




1. The CBDT vide Circular No. 12 of 2021 dated 25.06.2021 in exercise of its power u/s 119 of the Act, provided relaxation for various compliances, including application u/s 10(23C), 12AB, and 80G of the Act in Form No. 10A/10AB, for registration / provisional registration / intimation / approval / provisional approval of Trusts/ Institutions/Research Associations etc., which were required to be made on or before 30th June 2021 was allowed to be made/filed on or before 31st August 2021.

2. Thereafter, the CBDT vide Circular No. 16/2021 dated 29th August 2021, further extended the date of filing of Form 10AB u/s 10(23C), 12A, 35(1)(ii)/(iia)/(iii) or 80G, which was required to be filed on or before 30th June 2021 upto 31st March 2022 and similarly for application for registration or approval u/s 10(23C), 12A or 80G of the Act in Form IOAB, for which the last date for filing falls on or before 28th February, 2022 may be filed on or before 31st March, 2022.

c. Thereafter, once again the CBDT vide Circular No. 8/2022 dated 31.03.2022 on consideration of difficulties in electronic filing of Form No. 10AB as stipulated in Rule 2C or 11AA or 17A of the Income Tax Rules, 1962, stipulated that "The application for registration or approval under section 10(23C), 12A or 80G of the Act, in Form No. 10AB, for which the last date for filing falls on or before 29th September, may be filed on or before 30th September, 2022.

From the above, it is evident that the time limit prescribed under sub-section (5) of sec. 80G of the Act for filing Form No. 10A and 10AB, as the case may be is mandatory and therefore, after considering the hardship to the assessee, the CBDT extended the said time limit on multiple Occasions, for filing Form No. 10A and 10AB, u/s 119 of the Act, vide above, referred Circulars. As pe above referred CBDT Circular No.8/2022, the applicant/assessee, whose last date for filing Form No. 10AB for registration u/s 10 (23)(C)/12A/80G was falling on or before 29th September, 2022, was extended upto 30th September, 2022. Thereafter, there was no further extension for delay in filing Form No. 10AB was granted by the CBDT and the same is evident from CBDT Circular No. 22/2022 dated 01st November, 2022, through which the CBDT extended the time limit for filing application in Form No. 10AB under various sections made therein, upto 25.11.2022, and further in said Circular No. 22/2022, no further extension of time was granted for filing Form No. 10AB.



Therefore, as discussed in length above, it is concluded that the applicant has begun its activities from 01.04.2021 and the present application filed in Form No.10AB clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act has not been filed within the time limit prescribed therein and therefore the same is liable to be rejected as such as non-maintainable. Reliance is also placed 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 has 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 petitioners 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 Id. 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."

2.3. In view of the above, the present application filed in Form No. 10AB under clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act is liable to be rejected as non-maintainable.

3. The appellant assessee has claimed the commencement of activities on 16.12.2010. The assessee has applied for approval u/s 80G for the first time under the amended provisions of law of law w.e.f.01/04/2021 by the Finance

Act 2021. From perusal of records, it is observed that the assessee/applicant has filed Form 10AB for seeking approval u/s 80G of the Act on 30.09.2023 i.e. much after a delay of more than six months as prescribed under the mandate and the date extended by the CBDT circular No. 16/2021 dated 29th August 2021, further extended the date of filing of Form 10AB u/s 10(23C), 12A, 35(1)(ii)/(ia)/(iii) or 80G, which was required to be filed on or before 30th June 2021 upto 31st March 2022. Once again the CBDT vide Circular No. 8/2022 dated 31.03.2022 on consideration of difficulties in electronic filing of Form No. 10AB as stipulated in Rule 2C or 11AA or 17A of the Income Tax Rules, 1962, stipulated that "The application for registration or approval under section 10(23C), 12A or 80G of the Act, in Form No. 10AB, for which the last date for filing falls on or before 29th September, may be filed on or before 30th September, 2022.

4. The Ld. CIT Exemption has stated that the applicant has begun its activities from 01.04.2021 and that the present application filed in Form No.10AB clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act was not filed within the time limit prescribed therein and therefore the same was liable to be rejected as non-maintainable following 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



similar issue on provisions of due date u/s 10(23C) of the Act, has placed reliance on various decisions of the Hon'ble Supreme Court and that of Hon'ble High Court as above.

5. The Ld. Counsel has failed to rebut the contention of the Ld. CIT Exemption and distinguish the judgement of the Apex Court followed by the Kolkata Tribunal relied upon. At the same time, the decision/judgement relied by the appellant are distinguishable on peculiar facts of the present case.

6. In our view, the appellant's application cannot be considered as the same is time barred is affirmed and hence the finding regarding commencement of activities in commensurate to the objectives of the Society can be examined by the CIT Exemption, the judicial competent authority on the matter. Consequently, the matter can not be remanded back to the CIT Exemption for fresh consideration, in accordance with law.

7. However, we inclined to give appropriate direction to the CIT Exemption to consider the appellants fresh application in Form 10AB for approval U/s 80G(5) of the Act, considering the peculiar facts and circumstances of the case and that the petitioner could not have made a fresh application since its first application for approval was pending for adjudication before the Tribunal. The appellant shall be at liberty to file fresh application for provisional and Final



approval in Form 10AB, u/s 80G(5) before the Ld. CIT with reference to the commencement of the activities in commensurate to the objectives of the appellant Trust.

7. Therefore, considering the factual matrix and judicial proposition, we hold that Id. CIT (Exemption) has rightly rejected the application of the assessee for grant of approval under section 80G(5) of the Act.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced on.....³⁰...../10/2025 in the open Court.

- Sd -

(LALIT KUMAR)
JUDICIAL MEMBER

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Dated : 30/10/2025

- Sd -

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER



Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.

