

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

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

आयकर अपील सं. / ITA No.2983/PUN/2025

Shree Varad Vinayak Hospital And Healthcare Foundation, C/o Popat B Bhandwalkar, Dapodi, Daund, Pune-412203 PAN : ABDCS4704L	Vs.	CIT (Exemptions), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Jasraj Sutar
Department by :	Shri Amit Bobde
Date of hearing :	28-01-2026
Date of Pronouncement :	30-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 11.03.2024 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 30.09.2023.

2. There is a delay of 552 days in filing of this appeal before the Tribunal for which the assessee has filed an application along with affidavit explaining the reasons for such delay which are as under :

“2. That the order rejecting registration u/s 12AB & 80G of the Income Tax Act, 1961 was passed by Commissioner of Income Tax (Exemption) on e-filing portal on 11.03.2024.

3. The appeal was due to filing on 10.05.2024, but the consultant who was handling the related matter informed me that application was rejected on the ground that registration under section 12A of the Income Tax Act, 1961 was not available at the time of application for 80G registration.

4. Thereafter assessee trust filed an appeal before Hon'ble ITAT, Pune against rejection of registration under sec. 12A which was allowed vide order dated 22.04.2025. Further, after such order assessee trust filed against rejection of 80G registration.

7. Further I wish to add that the delay was neither intentional nor due to negligence but was caused by genuine and unavoidable circumstances.”

2.1 On perusal of the above reasons, we are satisfied that the delay in filing of appeal is not intentional or deliberate but has occurred for the reasons mentioned in the affidavit. After hearing both the sides, we are of the view that the delay is attributable to the sufficient cause. We, therefore, in light of the decisions of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji & Ors. (1987) 167 ITR 471 (SC)* and in the case of *Inder Singh Vs. The State of Madhya Pradesh* reported in 2025 LiveLaw (SC) 339, condone the said delay and proceed to decide the appeal.

3. Briefly stated, the facts of the case are that the assessee was granted provisional registration u/s 80G(5) of the Act on 31.12.2021 valid till AY 2024-25. The assessee applied for regular registration in Form No. 10AB under clause (iii) of first proviso to section 80G(5) of the Act on 30.09.2023. With a view to verify the genuineness of the activities and compliance to requirement of any other law for time being in force, a notice was issued and served upon the assessee through ITBA portal on 24.11.2023 asking the assessee to upload certain information/ clarification contained therein, to which the compliance was sought by 11.12.2023. After considering the reply of the assessee, another notice was issued on 02.01.2024 stating that there is delay in filing the application and asking the assessee to show cause as to why the application should not be rejected and as to why the approval should not be cancelled, to which the compliance was sought by 09.01.2024. The assessee failed to submit its response to the said show cause notice. Due to lack of any reply/explanation from the side of the assessee, the Ld. CIT(E) rejected the application of the assessee and also cancelled the provisional approval earlier granted on 31.12.2021 without going into the merits of the case on the ground that the assessee has not filed the present application within the time limit allowed under clause (iii) of first proviso to section 80G(5) of the Act and the assessee is not regularly registered u/s 12A of the Act.

4. Aggrieved, the assessee is in appeal before the Tribunal raising the following grounds of appeal :

“1. That the learned CIT erred in law and on facts in rejecting the application for approval under section 80G of the Income tax Act, 1961, solely on the ground of alleged delay, without appreciating that the appellant was not in a position to file Form 10AB within the prescribed time since the pre-condition for approval under section 80G is valid registration under section 12A.

2. That the learned CIT failed to appreciate that the appellant application for registration us 12A was pending before the same authority, and the said

application was ultimately rejected only on 11.03.2024, due to which the appellant could not have filed a valid 80G application earlier. The delay was therefore neither intentional nor deliberate but purely due to the pendency of 12A registration, which is a statutory prerequisite for 80G approval.

3. That the learned CIT erred in treating the time limit prescribed under section 80G as absolute, without considering that the appellant was prevented by reasonable cause in terms of section 119 2 b, as the appellant was awaiting the outcome of its 12A registration without which the 80G application could not have been effectively filed.

4. That the learned CIT Completely overlooked the fact that clause (i) of section 80G(5) mandates that income of the institution must qualify for exemption us 11 and 12, and hence absence of 12A registration automatically makes any 80G application defective. The appellant therefore rightly filed Form 10AB for 80G immediately upon receiving the order under section 12A, and the delay stood fully explained.

5. That the rejection of the 80G application without going into merits, merely due to timing, is bad in law, arbitrary and against the principles of natural justice, as the appellant had duly commenced charitable activities, maintained all prescribed records, and fulfilled all conditions us 80G except the one dependent on grant of 12A registration by the Department itself.

6. That the learned CIT ought to have considered that the delay was procedural and caused solely due to pendency of 12A proceedings before the Department, and should have directed approval from the date of application or, alternatively, from the subsequent assessment year as held by various High Courts in similar circumstances.

7. That the appellant craves leave to add, amend, or alter any of the above grounds at the time of hearing.”

5. The Ld. AR, at the outset, submitted that the assessee could not comply with the show cause notice issued by the Ld. CIT(E) only for the reason that the regular registration u/s 12A is a pre-condition for making an application u/s 80G of the Act. He brought to the attention of the Bench that in the appeal filed by the assessee before this Tribunal in ITA No. 4/PUN/2025 challenging the rejection of assessee's application for registration u/s 12A of the Act by the Ld. CIT(E), the Tribunal vide its order dated 22.04.2025 has set aside the issue to the file of the Ld. CIT(E) for fresh adjudication on merits of the case. He, therefore, requested that the matter may be set aside to the file of the Ld. CIT(E) for fresh adjudication on merits irrespective of limitation grounds after affording adequate opportunity of hearing to the assessee.

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

7. We have heard the Ld. Representatives of the parties and perused the material available on record. We find that the Ld. CIT(E) rejected the assessee's application for registration u/s 80G of the Act on the ground that the assessee is not having valid registration u/s 12AB and also the application u/s 80G of

the Act was not filed within six months of the commencement of the activities of the trust, without going into the merits of the case. We also find that the assessee's application for registration u/s 12AB of the Act was rejected by the Ld. CIT(E) against which the assessee filed an appeal before the Tribunal (ITA No. 4/PUN/2025) wherein the Tribunal vide its order dated 22.04.2025 has set aside the impugned issue to the file of the Ld. CIT(E) for fresh adjudication on merits of the case. In this view of the matter and considering the totality of the facts of the case, we deem it proper, in the interest of justice, to set aside the impugned order of the Ld. CIT(E) and restore the matter back to his file with a direction to consider and decide the issue afresh on merits as per fact and law after allowing due opportunity of being heard to the assessee. Needless to say, the assessee shall provide the requisite support in terms of submitting the relevant documents/evidence as may be called upon before the Ld. CIT(E) on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(E) shall be at liberty to pass appropriate order in accordance with law. Thus, the grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 30th January, 2026.

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

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th January, 2026.

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, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune