

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, VP &
SHRI ARUN KHODPIA, AM

I.T.A. No.7483/Mum/2025
(Assessment Year: 2025-26)

Sunanda Medical Institute, 2 nd Floor, 2/11, Dariyaganj, Ansari Road, Delhi-110002. PAN: AAFTS3048B	Vs.	CIT(Exemption), MTNL TE Building, Peddar Road, Cumballa Hill, Mumbai-400026.
Assessee -अपीलार्थी / Appellant	:	Revenue - प्रत्यर्थी / Respondent

Assessee by : Shri Priyank Ghia, AR
Revenue by : Shri Arun Kanti Datta, CIT-DR
Date of Hearing : 28.01.2026
Date of Pronouncement : 29.01.2026

ORDER

Per Arun Khodpia, AM:

The present appeal is preferred by the assessee assailing the order of Commissioner of Income Tax (Exemption) Mumbai (for short ‘CIT(E)’), dated 18.09.2025 for the Assessment Year (AY) 2025-26). The grounds of appeal raised by the assessee are as under:

“1. On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Exemptions) (“Ld. CIT(E)”) has erred in rejecting the appellant's application in Form 10AB for approval u/s. 80G(5) of the Income Tax Act, 1961 (“The Act”) merely on the ground that the incorrect clause of the

section was selected while filing the application, without considering the facts and circumstances of the case.

2. The Ld. CIT(E) failed to appreciate that the incorrect selection of clause (1) instead of clause () in Form 10AB was a bona fide and clerical mistake committed during filing. The same being a procedural and technical error, ought not to have been made a ground for outright rejection without considering the substantive compliance and the eligibility of the trust, is arbitrary, unjustified, and contrary to the principles of natural justice.

3. The Ld. CIT(E) has erred in rejecting the application purely on technical grounds without granting a proper opportunity to rectify or cure the alleged defect, which amounts to a violation of the principles of natural justice.”

2. At the outset, it is submitted by ld. Counsel of the assessee (AR) that, the ld. CIT(E) has rejected the application of assessee submitted in Form-10AB for approval under section 80G(5) of the Act, merely on the ground that the incorrect clause of the relevant section was selected while filing the application, without considering the facts and circumstances of the case. It was the submission that the mistake was a bonafide clerical mistake committed by the assessee, while filing the prescribed form, wherein the assessee had selected clause-ii of the 1st proviso to section 80G(5) instead of clause-iii, under which the assessee trust is provisionally registered. The ld. AR argued that this mistake was a procedural and technical error, ought not to have been made a ground for outright rejection, without considering the substantive compliance and the eligibility of the Trust. It is claimed that, the action of CIT(E) in rejecting the assessee's application was arbitrary, unjustified and contrary to the settled principles. It is further submitted that the rejection was purely on technical ground without affording the assessee proper opportunity to

rectify or cure the alleged defect, this amounts to violation of Principle of Natural Justice. It was the prayer that the assessee may be provided with one more opportunity to before the ld. CIT(E) to cure the defect, that the assessee may be permitted to furnish the application in Form 10AB afresh, by selecting the correct clause of section 80G(5) of the Act.

3. Per contra, the ld. CIT-DR vehemently supported the order of ld. CIT(E).

4. We have considered the rival submissions, perused the material available on record. Admittedly the assessee has duly filed Form 10AB before the ld. CIT(E), however had committed a mistake in opting the relevant clause of section 80G(5) of the Act. The selection of wrong clause i.e. clause-ii of 1st proviso to section 80G(5), which is not applicable in the case of assessee, instead of clause-iii which is applicable, caused the rejection of assessee's application, without any appreciation to the facts, objects and activities of the assessee-trust or observations *qua* the merits. On perusal of the submissions of the assessee, on a thoughtful consideration of the facts and circumstances of the present case, we find that selecting a wrong clause of 1st proviso to section 80G(5), would fall under the category of a bonafide mistake only and shall not be the sole reason for rejection of application under Form 10AB for granting of registration under section 80G, we therefore allow the assessee to re-file a fresh

application in Form 10AB, before the Id. CIT(A) which thereafter can be decided in accordance with the merits of the case.

5. A similar issue is decided by the coordinate bench of ITAT, Vishakhapatnam taking an identical view as of ours, in the case of ***Andhra University Alumni Association v. Income-tax Officer (Exemption Ward)**** reported in [2025] 176 taxmann.com 334 (Visakhapatnam - Trib.), holding as under:

16. We have heard rival contentions and perused the material available on record. There is no dispute that the assessee is duly registered under section 12AA of the Act and has also filed for registration under section 12AB of the Act. The Assessee also filed Form 10AB seeking registration under section 80G of the Act. The only basis for rejection by the Ld. CIT(E) is the assessee quoted section "80G(5)(i)" instead of "80G(5)(iv)" wherein in this case assessee was holding registration under section 80G of the Act dated 15.12.2016 issued by the department. This being a mere technical or procedural lapse, and the substance of the application cannot be disregarded solely on such ground. It is also a well settled principle that procedural mistake should not defeat substantial rights especially in cases involved registration of charitable institutions which otherwise meet the conditions stipulated under the Act. The Hon'ble Supreme Court in the case of CIT v. G.M. Mittal Stainless Steel (P.) Ltd. [2003] 130 Taxman 67/263 ITR 255 (SC) has held the procedural lapses should not come in the way of granting substantive relief, provided the assessee is otherwise eligible. Various judicial pronouncements have held that the procedural defects or clerical errors should not defeat the substantive rights particularly in the context of welfare and beneficial legislations like Registration 80G of the Act.

17. The assessee in the present case has already been granted Registration under section 12AA of the Act and was also holding Registration under section 80G of the Act, appears to have fulfilled all the substantive conditions prescribed under section 80G of the Act. Therefore, rejection of the application without affording opportunity to rectify the error is not in consonance with the principles of natural justice. In view of the foregoing, we hold that the rejection of the assessee application is not justified and therefore we set-aside the impugned order and restore the matter to the file of the Ld.CIT(E) with a direction to examine the assessee's application on merits after allowing the assessee to rectify the procedural errors. Ld.CIT(E) shall dispose of the application afresh after giving due opportunity of hearing to the assessee. Thus, the appeal is allowed for statistical purposes.

6. In backdrop of such facts and circumstances, in the interest of substantial justice, we restore this matter back to the file of Id. CIT(E), wherein the assessee is directed to furnish a fresh application in Form 10AB with all the correct details for fresh consideration of Id. CIT(E). Needless to say, the assessee shall be provided with reasonable opportunity of being heard in the set-aside proceedings.

7. In result, the appeal of assessee is **partly allowed for statistical purposes**, in terms of our aforesaid observations.

Order pronounced in the open court on 29-01-2026.

Sd/-
(SAKTIJIT DEY)
Vice-President

Mumbai, Dated : 29-01-2026.

*SK, Sr. PS

Sd/-
(ARUN KHODPIA)
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