

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2380/Bang/2025
Assessment Year: 2025-26

Sri Shushrutha Educational Trust No.2366/27, “Gurukrupa” 12 th Main, A Block, 2 nd Stage Rajajinagar Bengaluru 560 010 PAN NO : AAETS7079K	Vs.	CIT (Exemptions) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Sri Monish Sowkar, A.R.
Respondent by	:	Sri Muthu Shankar, D.R.

Date of Hearing	:	17.02.2026
Date of Pronouncement	:	21.04.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of Id. CIT(Exemptions), Bengaluru vide DIN and notice no: ITBA/EXM/F/EXM45/2025-26/1079453489(1) dated 10/08/2025 rejecting the application for approval u/s. 80G of the Income Tax Act,1961 (in short” the Act”)

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

1. The order of rejection for approval and recognition under section 80G(5) of the Act passed by the learned Commissioner of Income Tax-(Exemption), Bengaluru dated 10/08/2025, in so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, fact

and circumstances of the Appellant's case, requires to be quashed.

2. The learned Commissioner of Income Tax (Exemptions), Bengaluru, is not justified in mechanically rejecting the application filed by the appellant for recognition and approval for registration of the appellant Trust under section 80G(5) of the Act merely on the inadvertent mistake in choosing the right clause in the application filed by the appellant, on the facts and circumstances of the case.
3. The learned Commissioner of Income Tax (Exemptions), Bengaluru is not justified in rejecting the application filed by the applicant under section 80G of the Act in Form 10AB, by holding that the application for recognition and approval filed under section 80G of the Act is not under correct clause i.e. the appellant ought to have filed the application in Form No.10AB under clause (iii) of proviso to section 80G of the Act, whereas the appellant had filed the application under sub-clause(B) of clause (ii) of proviso to section 80G of the Act, without properly appreciating that it was only a bonafide, unintentional and clerical mistake committed by the appellant while filing the application and ought to have allowed the appellant to rectify the said mistake in the very same application filed, on the facts and circumstances of the case.
4. The learned Commissioner of Income Tax (Exemptions), Bengaluru ought to have appreciated that various Hon'ble authorities have consistently held that the procedural lapses should not override substantial justice and consequently ought not to have rejected the application filed by the appellant in Form 10AB for

registration and approval under section 80G of the Act, on the facts same application filed, on the facts and circumstances of the case.

5. The learned Commissioner of Income Tax (Exemptions), Bengaluru, failed to appreciate that the appellant has not committed any specific violation as enumerated under clause (ii) of second proviso to section 80G(5) of the Act and consequently the order of rejection passed by the learned Commissioner of Income Tax (Exemptions) on a mere technical grounds as regard to the filing of application for registration under section 80G of the Act, is bad in law, on the facts and circumstances of the case.
6. The learned Commissioner of Income Tax (Exemptions), Bengaluru, is not justified in rejecting the application fore recognition and approval for registration under section 80G(5) of the Act on certain assumptions, presumptions, surmises and on wrong appreciation of facts and consequently passed a perverse order, on the facts and circumstances of the case.
7. Without Prejudice, the order of rejection of registration passed by the learned Commissioner of Income Tax (Exemptions), Bengaluru is in gross violation of principles of natural justice and fair play since the appellant trust was not provided with sufficient opportunity of hearing and consequently passed impugned order of rejection order in a hurried manner which is not in accordance with law and the impugned order of rejection passed by the learned Commissioner of Income Tax (Exemptions), Bengaluru requires to be cancelled, on the facts and circumstances of the case.

8. The appellant craves leave of this Hon'ble Tribunal to add, alter, amend, substitute or delete any or all the grounds of appeal urged above at the time of hearing of appeal by this Hon'ble Tribunal.
9. For the above and other grounds to be urged during the course of hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice.

3. The Brief facts of the case are that the assessee is a public charitable trust constituted vide Deed of Trust dated 02/03/1995 and registered before the sub-registrar, Rajaji Nagara, Bengaluru bearing registration no: BK IV 801/1994-95. The object of the trust is to establish educational institutions in all faculties including medical, dental, pharmacy, engineering and electronic and other higher technical institutions in all parts of India. Thus, the primary object of the assessee Trust is "education". The assessee trust was granted provisional registration u/s. 80G of the Act in Form No.10AC dated 04/04/2022 vide unique registration no (URN): AAETS7079KF20225 effective from 04/04/2022 to AY 2024-25. Thereafter the assessee Trust filed an application in Form No. 10AB on 05/02/2025 for final registration u/s. 80G of the Act which is rejected by the learned Commissioner of Income Tax (Exemptions), Bengaluru on the ground that the assessee trust was supposed to file the application in Form No.10AB under clause (iii) of proviso to sub-section (5) of section 80G of the Act since the assessee had already obtained provisional registration. However, the assessee had filed an application in Form No.10AB under sub-clause (B) of clause (ii) of first proviso to sub section (5) of section 80G of the Act. As the assessee had selected the wrong section code while applying Form No.10AB for registration u/s. 80G of the Act, the learned

Commissioner of Income Tax (Exemptions), Bengaluru rejected the application filed in Form No.10AB dated 05/02/2025.

4. Aggrieved by the order of the learned Commissioner of Income Tax (Exemptions), Bengaluru dated 10/08/2025, the assessee has filed the present appeal before this Tribunal.

5. Before us, the learned A.R. of the assessee vehemently submitted that while filing the Form No.10AB for final registration u/s. 80G(5) of the Act, the assessee had inadvertently mentioned the wrong section code as sub-clause (B) of the clause (iv) of first proviso to sub-section (5) of section 80G of the Act instead of correct section code i.e. clause(iii) of first proviso to sub-section (5) of section 80G of the Act. Further, the ld. A.R. of the assessee submitted that all the details as required for final registration u/s 80G of the Act were filed before the learned Commissioner of Income Tax (Exemptions), Bengaluru. However, the ld.CIT(E) rejected the application filed in Form No.10AB without providing the assessee trust any further opportunity to explain. Lastly, the ld. A.R. submitted that merely because of inadvertent error on the part of the assessee, the application for approval u/s. 80G(5) of the Act should not be rejected especially when all the details as called for were furnished and accordingly prayed that the order of the ld.CIT(E) may be quashed.

6. The ld. D.R. on the other hand vehemently submitted that the ld. CIT(E) had rejected the application based on the submission made by the assessee in the Form No.10AB. Further, the ld. D.R. fairly submitted that the case of the assessee may be remitted back to the file of ld. CIT(E) for fresh consideration based on the correct section code applicable in the case of assessee trust.

7. We have heard the rival submissions and perused the material available on record. Before we proceed to examine the facts of the assessee's case, it is apposite here to first look at the relevant provisions of the first proviso to sub-section (5) of section 80G of the Act which read as under: -

Provided that the institution or fund referred 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 approval under clause (vi) (as it stood immediately before its amendment⁵ by the Taxation and other Laws (Relaxation and Amendment of certain Provisions) Act, 2020), within three months from the 1st day of April, 2021;*
- (ii) Where the institution or fund is approved and the period of 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; (or)*
- (iv) [***] where activities of the institution or fund have—*
 - (A) not commenced, at least one month prior to the commencement of the previous year relevant to the*

assessment year from which the said approval is sought;

*(B) commenced [***] at any time after the commencement of such activities:]*

7.1 Thus, the assessee in terms of the above provisions initially applied for a provisional approval under sub-clause (B) of clause(iv) of first proviso to sub-section (5) of section 80G of the Act and was granted provisional approval u/s. 80G(5) of the Act from 04/04/2022 to AY 2024-25. In the application for final approval applied in Form No.10AB on 05/02/2025, we noticed that the assessee had once again mentioned the same section i.e. sub-clause (B) of clause(iv) of first proviso to sub-section (5) of section 80G of the Act, whereas the correct section code under which the assessee ought to have sought for approval is clause (iii) of first proviso to sub-section (5) of section 80G of the Act. We also observed that the Id. CIT (E) had rejected the Form No.10AB dated 05/02/2025 solely on the ground that the assessee had selected the wrong section code while applying in Form No.10AB for final registration u/s. 80G(5) of the Act.

7.2 Considering the totality of the facts and the provisions of law, we are of the considered opinion that the Id. CIT (E) before rejecting the Form No.10AB dated 05/02/2025 applied for final approval u/s. 80G of the Act ought to have granted final opportunity of being heard to the assessee before mechanically rejecting the approval on the ground of selecting the wrong section code by the assessee. Further, we would like to draw attention of a very old circular no. 14(XL-35) dated 11/04/1955

issued by the CBDT although related to assessment but very relevant to the present facts wherein it is stated that the officers of the department must not take advantage of ignorance of the assessee as to his rights. It is one of their duties to assist a tax payer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard the officers should take the initiative in guiding a tax payer where proceedings or other particulars before them indicate that some refund or relief is due to him. This attitude would, in the long run, benefit the department for it would inspire confidence in him that he may be sure of getting a square deal from the department. On perusal of Form No.10AB dated 05/02/2025 filed by the assessee, in our considered view there is a merit in the contention of the A.R. of the assessee that the assessee trust had inadvertently selected the wrong section code while filing the application for final registration u/s. 80G(5) of the Act. In view of the above discussion and considering the fact that the Id. CIT(E) has not provided final opportunity of being heard before rejecting the application on technical ground, we deemed it fit and proper to remit the matter back to the file of Id. CIT(E), Bengaluru with a direction to decide the issue afresh after treating the application in Form No.10AB dated 05/02/2025 as filed by the assessee under the correct/ desired section i.e. clause (iii) of first proviso to sub-section (5) of section 80G of the Act. Needless to say, a reasonable opportunity of being heard must be granted to the assessee. The assessee is also directed to produce all the necessary documents/ records/ financials/ reports etc. to satisfy the conditions for granting approval u/s. 80G(5) of the Act. It is ordered accordingly.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 21st Apr, 2026

Sd/-
(Prashant Maharishi)
Vice President

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 21st Apr, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.