

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B”, HYDERABAD**

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI LALIET KUMAR, JUDICIAL MEMBER

आ.अपी.सं / **ITA No. 255/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2023-24)

Telangana State Chapter Indian Radiological & Imaging Association, Hyderabad [PAN No. AABAA2406J]	Vs. Income Tax Officer, (Exemptions), Ward-1(3), Hyderabad
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अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri T. Rajendra Prasad, AR
राजस्व द्वारा/Revenue by: Shri K. Madhusudan, CIT-DR

सुनवाई की तारीख/Date of hearing: 14/06/2023
घोषणा की तारीख/Pronouncement on: 15/06/2023

आदेश / **ORDER**

PER LALIET KUMAR, JM:

Aggrieved by the order dated 11/03/2023 passed by the learned Commissioner of Income Tax (Exemption)-Hyderabad (“Ld. CIT(E)”), in the case of Telangana State Chapter Indian Radiological & Imaging Association (“the assessee”), assessee preferred this appeal.

2. Brief facts of the case are that, assessee is a society affiliated to Indian Radiological and Imaging Association. The

objectives of the assessee includes, promoting, constructing and maintaining all kinds of hospitals, dispensaries, clinics, diagnostic centres in Radio Diagnostick, MRI, CT, Ultra Sound etc.

3. The assessee had filed e-application for grant of approval u/s. 80G(5) of the Act in form 10A on 12.03.2022. At the time of filing the application, the assessee at Serial No. 2 of the application had selected the option 'section code-11' instead of 'section code-12' in form 10A. This was necessary as the assessee was an existing society. On account of the wrong selection of code at serial No.2 of form 10A, a provisional approval was accorded in form 10AC on 19.03.2022 for a period of three years to the assessee.

4. As per section 80G(5)(iii) of the Act, the assessee was required to get the final approval within six months of the commencement of the activities. The assessee being the existing institution and had already commenced its activities, therefore, the assessee had applied for grant of approval in form 10AB on 30.09.2022 for converting the provisional approval into final approval, choosing section code-14.

5. The Id.CIT(E) has issued the letter dt. 08.12.2022 calling for various documents from the assessee including the Memorandum of Association/Trust Deed. The assessee had submitted he response to the said letter along with the Memorandum of Association/Trust Deed.

6. The ld.CIT(E), had again issued a show cause notice on 01.03.2023, by recording that as the assessee applicant was holding the registration u/s.80G prior to March, 2022, therefore, the application for provisional assessment filed in form 10A after selecting 12-Clause(iv) of first proviso to sub-section (5) of Section 80G.

7. The assessee submitted before us that the requisite information was already on record, therefore, the reply to the said show cause notice was not given. In the result, the ld.CIT(E) had dismissed the application for final approval vide impugned order dt. 11.03.2023.

8. Feeling aggrieved by the order passed by the ld.CIT(E), the assessee is in appeal before us.

9. The ld.AR had submitted that there was lack of clarity at the time of filing the application by the assessee on 12.03.2022 as on account of newly introduced forms, requiring the assessee to apply for grant of provisional/final approvals. In fact, the time line for making the application had repeatedly been extended by the Board. It was submitted that selection of wrong column/form by the assessee was unintentional and the assessee was willing to file all the details as may be required for grant of final approval.

10. On the other hand, the ld.DR relied upon the order passed by the lower authorities.

11. We have heard the rival contentions of the parties and perused the material available on record. Admittedly, the assessee was a society, which was holding registration u/s. 80G of the Act prior to 31.03.2021 and was required to submit the application u/s. 80G(5) of the Act after ticking the correct 'section code-12' in form 10A. However, on account of the error in submitting the correct application, the provisional registration was granted to the assessee on 19.03.2022. As per the section 80G(5)(iii) of the Act, the assessee was required to file an application for permanent registration within six months of grant of provisional registration. The relevant portion of the Act, provides as under:

(iii) where the application is made under clause (iv) of the said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the institution or fund:

Provided also that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the first proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:

Provided also that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

(a) clause (i) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;

(b) clause (iii) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;

(c) in any other case, from the assessment year immediately following the financial year in which such application is made.]

12. Since in the present case, on account of the mistake committed by the assessee, while filing the application, the provisional registration was granted to the assessee on 19.03.2022 and, therefore, the assessee had filed the application for grant of permanent registration vide application dt. 30.09.2022, being the existing continuing society.

13. The application of the assessee has been rejected by the Id.CIT(E) on the pretext that the assessee was having registration upto assessment year 2024-25. And further the assessee have not submitted the document for verification. In our view, the assessee, being a society was registered even prior to 31.03.2021 and thereafter had applied for registration, as mentioned herein above on provisional basis. In our considered opinion, though the assessee had committed a mistake in selecting the wrong section code 11 while making an application at the first instance, however, for such a mistake, the permanent registration cannot be denied by the respondent. In our view, the respondent is also duty bound to cross-verify the details, submitted by the assessee at the time of issuance of provisional certificate and should have issued a notice at that time by pointing out the wrong selection of section code by the assessee. Thus, the assessee as well as Revenue both are at fault. In view of the above, we deem it appropriate to remand back the matter to the file of the Id.CIT(E) with a direction to permit the assessee to rectify

the mistake in submitting the application form and with a further direction to consider the application of assessee for grant of permanent registration. Needless to say that the assessee is also directed to co-operative with the Id.CIT(E) and shall file all the necessary details as may be required by the authorities so as to facilitate earlier and speedy disposal of the case.

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

Order pronounced in the open court on this the 15th day of June, 2023.

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad,
Dated: 15/06/2023

TNMM

Copy forwarded to:

1. *Telangana State Chapter Indian Radiological & Imaging Association, IRIA House, 101, 1st Floor, 8-2-675/1/A, HASNA, 13th Avenue, Plot No. 16, Road No. 13, Banjara Hills, Hyderabad.*
2. *Income Tax Officer(Exemptions), Ward-1(3), Hyderabad.*
3. *DR, ITAT, Hyderabad.*
4. *GUARD FILE*

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ASSISTANT REGISTRAR
ITAT, HYDERABAD