

IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SHRI OMKARESHWAR CHIDARA (ACCOUNTANT MEMBER)

I.T.A. No. 4473/Mum/2025
Assessment Year: 2024-25

Khairul Islam Higher Education Society 246-A, Jehangir Roman Behram Road, Mumbai-400008 PAN:AAATK2973J (Appellant)	Vs.	CIT(Exemption) 601, 6 th Floor, Cumballa Hill MTNL TE Building Pedder Road, Mumbai - 400026 (Respondent)
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Appellant by	Shri Bhupendra Shah
Respondent by	Shri Hemanshu Joshi, SR. D.R.

Date of Hearing	09.09.2025
Date of Pronouncement	30.09.2025

ORDER

Per: Smt. Beena Pillai, J.M.:

The present appeal filed by the assessee arises out of order dated 24/05/2025 passed by CIT(Exemptions), Mumbai for assessment year 2024-25 on following grounds of appeal :

- “1. In the facts and circumstances of the case and in law, the leaned CIT (Exemption) erred in not granting registration u/s 80G[5] of ITA, 1961, and rejecting the Application for the same just because a wrong option of fresh certificate was selected instead of renewal*

of the said certificate that too without granting an opportunity rectify the clerical error.”

Brief facts of the case are as under:

2. The assessee is registered as a Trust under Bombay Public Trust Act 1950 with Charity Commissioner, Mumbai. It is running Maharashtra College of Arts, Science and Commerce at Jehangir Boman Balhram Road, Mumbai since 1971. It's getting Government grants for salary of teaching staff. All its objects are wholly and exclusively for Educational purposes.

2.1 It is approved under Section 12A up to 31-3-26 and u/s 80G provisional approval was granted upto 31-3-2024. It applied for renewal of 80G approval on 18/5/2024 which was within time, but the application was rejected on the grounds that the application was made under wrong provision being section 80G(5)(iv)(B)

2.2 Hence a curative application was filed on 2/12/2024 under Section 80G(5)(iii). However, the said application was also rejected citing late filing, ignoring the submissions of the assessee.

2.3 Selection of wrong Section is no ground to reject application u/s 80G. There was no delay in filing application as the first application was filed in time and 2nd application was a curative one to correct the Selection of wrong Section in first application.

3. The Ld.AR submitted that, the assessee being an old trust it had to apply for renewal of 80G u/s. 80G(5)(iii) as against 80G(v)(iv)(b). He thus submitted that the registration u/s.12A is available to the assessee and relied on the decision of Coordinate Bench of this Tribunal in case of Rotry Charity Trust vs. CIT(E)

Mumbai in ITA No. 6133/Mum/2024, vide order dated 09/01/2025 wherein identical issue was considered.

On the contrary, the Ld.DR relied on the orders passed by the authorities below.

We have perused the submissions advance by both sides in the light of record placed before us.

4. It is noted that the assessee is admittedly an old trust having a valid registration under section 12A and 80G.

4.1 It is noted that while filing Form for final registration in Form 10AB has inadvertently mentioned the wrong section as sub- clause (B) of clause (iv) of first proviso to subsection (5) of section 80G instead of clause (iii) of first proviso to subsection (5) of section 80G

4.2 From the perusal of provisions applicable to the facts of present case, in our considered view, there is merit in claim of the Id. AR that assessee has selected the wrong section code inadvertently while filing the application for final registration in Form 10AB

4.3 In view of these we remit the issue back to the file of Ld.CIT(E), with a direction to consider the application under Clause (iii) to first proviso to section 80G(5) of the Act, and to decide the application of the assessee for final approval as possible before the expiry of the provisional approval granted in order to enable the assessee to have the benefit of section 80G without any break.

Accordingly the grounds raised by the assessee stands allowed for statistical purposes.

In the result the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 30/09/2025

Sd/-

(OMKARESHWAR CHIDARA)
Accountant Member

Sd/-

(BEENA PILLAI)
Judicial Member

Mumbai:

Dated: 30/09/2025

Poonam Mirashi,
Stenographer

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai