

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.7915/Mum/2025  
(Assessment year: 2025-26)**

<b>The Advertising Standards Council of India</b> A/402, Aarus Chambers, S.S. Amrutwar Marg, Worli, Mumbai-400013 <b>PAN:AAACA7314C</b>	<b>vs</b>	<b>CIT (Exemptions), Mumbai</b> Room No.601, 6 <sup>th</sup> floor, Cumballa Hill MTNL Telephone Building, Pedder Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai-400026
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Anand Desai & Shri Sachin Lopes  
Revenue by : Shri Rajesh Kumar Yadav (CIT. DR)

Date of hearing : 13/04/2026  
Date of pronouncement : 20/04/2026

**ORDER**

**Per: Anikesh Banerjee (JM):**

The instant appeal of the assessee filed against the order of the Ld. Commissioner of Income Tax (Exemption), Mumbai [for brevity the "Ld. CIT(E)"], order passed under section 80G(5) of the Act (for brevity 'the Act') for Assessment Year 2025-26, date of order 29.09.2025.

2. The brief facts of the case are that the assessee filed an application in Form No.10AB under Clause (iii) of the 1<sup>st</sup> Proviso to 80G(5) of the Act on 21.02.2025 seeking approval u/sec. 80G of the Act. The Ld. CIT(E) observed that the assessee had filed the application with delay for 18 months which is not valid as per the provision u/sec. 80G of the Act. So, the application is filed beyond the permissible time limit is one of the reason for rejecting the same. The Ld. CIT(E) further observed that the assessee had incurred the foreign expenses which is violation of section 11(1)(c) of the Act. Considering this, the Ld. CIT(E) rejected the application of the assessee. Being aggrieved assessee filed an appeal before us.

3. The Ld. AR argued filed a paper book containing **page 1 to 178** which has been placed on record. The Ld. AR submitted the clarification for delay in application before the Ld. CIT(E), the relevant part of the submission is reproduced as below:

***“Clarification on Timing of Application***

*1. As per section 80G(5)(iii), an application for regular registration is to be made within six months of commencement of activities or at least six months before expiry of the provisional registration period, whichever is earlier.*

*2. In the instant case, the provisional registration was granted on 19.01.2023 in Form 10AC, valid up to AY 2025-26. Considering the extension granted by CBDT Circular No. 07/2024 dated 25.04.2024, the application under Form 10AB should have been filed before June 2024.*

*3. The delay in filing the application in Form 10AB was purely unintentional and occurred due to bona fide reasons.*

*Following the unfortunate demise of the Company's long-standing Chartered Accountant in August 2023, who had been advising the Company since its inception in 1985, the Company was constrained to appoint a new firm of Chartered Accountants as its tax consultants. The newly appointed consultants were entrusted with the responsibility of filing income-tax returns, attending to departmental queries, and advising on statutory compliance after a detailed review of the Company's past income-tax records. Owing to the volume and vintage of records as well*

*as the time required to familiarise themselves with the Company's operations and financial statements, the said process inevitably took a considerable period of time.*

*Simultaneously, during the period from August 2024 to February 2025, the Company faced multiple, time sensitive appellate and assessment proceedings, including several hearing notices under section 250 for AYs 2016-17, 2017-18, 2018-19, and 2020-21. Significant time and resources were invested in preparing and submitting responses, coordinating with the appellate authorities, and completing the Tax Audit in Form 10B, due on 30.09.2024 (extended to 07.10.2024), which was duly filed on 29.09.2024.*

*Furthermore, the statutory ITR-7 filing was completed on 21.10.2024, well within the extended due date of 31.10.2024. Thereafter, considerable effort was devoted to preparing and filing the ITAT Appeal for AY 2018-19 on 20.12.2024, pursuant to the order under section 263 dated 06.03.2024. Further, in January 2025, a Notice under section 142(1) for AY 2018-19 was received and duly complied with, followed by a second 142(1) notice along with a Show Cause Notice u/s 143(3) in February 2025, all of which were responded to promptly. The ITAT hearing for AY 2018-19 took place on 13.02.2025., and immediately thereafter, the Form 10AB application for approval u/s 80G was filed on 21.02.2025 without any further delay. The ITAT order was subsequently pronounced on 28.02.2025.*

*While the Company had engaged a new consultant, the Company itself was simultaneously occupied with addressing multiple urgent matters, including appellate proceedings, assessment notices, tax audit requirements, preparation and filing of the ITAT Appeal, and other statutory compliances. Consequently, the specific requirement and timeline for filing Form 10AB did not come to the attention of the Company, nor was it advised by the consultant amidst these pressing priorities. Once the lapse was identified and appropriate professional guidance was obtained, the application in Form 10AB was promptly filed on 21.02.2025.*

*The delay in filing Form 10AB was wholly unintentional and attributable solely to a bona fide oversight during a period of intensive compliance activity. It was not due to any mala fide intent or any attempt to misuse the exemption. In light of the above facts, it is humbly prayed that the delay may kindly be condoned in the interest of substantial justice."*

4. With regard to the delay in filing the said application, the Ld. AR invited our attention to the observations of the Ld. CIT(E) in the impugned order. The relevant extract from para 4.3 is reproduced as under:

*“Regarding the issue of delay in filing of application for regularisation of provisional registration, the relevant para is reproduced as under.*

*"2. In our case, the provisional registration was granted on 19.01.2023 in Form 10AC, valid up to AY 2025-26. Accordingly, the application under Form 10AB should have been filed before September 2024.*

*3. Unfortunately, the directors of the Company, being professionals from the advertising and consumer awareness sector with no prior experience in tax-exemption compliance, were not fully conversant with these procedural requirements. At that stage, no professional advisor had been engaged to guide them on this timeline.*

*4. As soon as the lapse was noticed and professional advice was obtained, the application in Form 10AB was filed in February 2025. The delay is thus attributable only to bonafide lack of awareness and absence of professional assistance, and not due to any malafide intent or attempt to misuse the exemption.*

*Request for Condonation of Delay*

*The delay is procedural and technical in nature and has caused no prejudice to the Revenue, since the Trust has been carrying out bona fide charitable activities within India.*

*We have attached herewith an Affidavit (Annexure 2.1) affirming that such delay will not recur in the future.*

*Going forward, the Trust has already engaged professional advisors to ensure timely and strict compliance with all statutory requirements."*

*4.1 The contention of the applicant is not acceptable. It is clearly mentioned in point 10(c) of the provisional approval in Form 10AC for 80G dated 19.01.2023 that the application for regularisation of provisional approval is to be made within 6 months of commencement of activities or at least 6 months prior to the expiry of period of provisional registration, whichever is earlier. However, the applicant has not complied to such terms of provisional approval dated 19.01.2023. The applicant trust is supposed to comply with the provisions of law. It is clarified that the obligation to furnish Form No. 10AB within the prescribed due date is a statutory and substantive requirement, not a mere procedural formality. When an assessee seeks to avail the benefits of provisions section 80G of the Act, being a beneficial*

*provision, strict compliance with the prescribed conditions is necessary. This includes the timely filing of Form No. 10AB within the due date specified under section 80G of the Act.*

*4.2 This position has been reaffirmed by the judgement of Hon'ble Supreme Court in the cases of PCIT vs. Wipro Ltd. (2022) 140 taxmann.com 223 (SC) where the apex court has held that compliance with statutory conditions, such as filing within the prescribed time is mandatory and cannot be relaxed, as exemption is a matter of legislative grace and available only upon strict fulfilment of the prescribed requirements.*

*Reliance is also placed on the judgement of Hon'ble Supreme court in case of Commissioner of Customs vs. Dilip Kumar & Co. (2018) 9 SCC 1, where it was held that exemption notifications must be read strictly, and the person claiming the exemption has to clearly prove eligibility. It was also held that if there is ambiguity about the scope of an exemption, the benefit of such ambiguity will go to the Revenue and not to the assessee.*

*4.3 It is pertinent to mention that the Board has provided various extensions and general condonation, latest vide Circular No. 07/2024 dated 25.04.2024 to file/re-file the application for registration in case the Trusts have failed to do so or the application got rejected under specified grounds. However, the applicant has failed to avail the benefit of the same. Also, the applicant has not been able to show any reasonable cause for delay or to establish that the applicant trust had genuine hardship in filing of the application within the due date. In absence of a reasonable cause of delay the request of the applicant for condonation of delay is not acceptable.”*

5. In argument the Ld. AR submitted the **additional ground** and the **additional evidence** related to decision crucial to demonstrate that the assessee was already holding a valid registration under 80G prior to the amending introduced by the Finance Act 2020 and was therefore eligible for revalidation under amended provision, which would have been valid for five years up to 30.03.2026. Accordingly, the application for renewal would be required to be filled on or before 30.09.2025. In fact, the application for renewal of registration u/sec. 80G was filed on 21.02.2025 which was well within the prescribed time limit and

therefore, the same ought to have been considered as filed within time. The relevant additional grounds are reproduced as below:

*“The Appellant respectfully submits as under*

- *During the course of filing Form 10A under the new registration regime introduced by Finance Act. 2020, the Appellant trust inadvertently filed the application under incorrect clause Le clause (iv)(A) of the proviso to section 80G(5) instead of the applicable clause (1) of the proviso to section 80G(5) and did not enclose copy of earlier approval granted under section 80G dated 30th October 2009.*
- *The earlier approval order dated 30th October 2009 under section 80G is a crucial document which demonstrates that the Appellant was already holding valid approval and was eligible for revalidation instead of provisional approval*
- *The said document could not be submitted before the learned CIT(E) due to bona fide and inadvertent lack of complete factual information at the time of filing the application in Form KIA during the transition to the new electronic registration regime.*
- *The additional evidence now sought to be produced goes to legal aspect concerning the issue involved in the instant matter and is necessary for proper adjudication of the present Appeal*
- *The Appellant submits that non-admission of this evidence would cause serious prejudice. whereas admission would not cause any prejudice to the department*
- *The Appellant therefore prays that the additional evidence enclosed herewith may kindly be admitted in the interest of justice.*

**List of Additional Evidence:**

- *Copy of 80G Registration Certificate granted on 30th October 2009*
- *Copy of Application made in Form 10A for 80G registration dated 02.01.2023.”*

6. The Ld. DR argued and stated that the assessee had filed application with a delay. So, in any case the delay should not be condoned. So, the Ld. CIT(E) has

taken the correct decision where the application was rejected on the ground of limine. The Ld. DR respectfully relied on the order of Hon'ble Supreme court in case of **CIT vs Shri Shivaji Educational Society reported in (2026) 184 taxmann.com 192 (SC)**. Relevant paragraph 6 is reproduced as below:

*"6. After hearing learned counsel for the parties, in our opinion, the present appeal can be disposed of while holding that the grant of exemption under Section 80G of the Act is not automatic to registration under Section 12AA of the Act as is laid down by this Court in the case of Sant Girdhar Anand Parmhans Sant Ashram's case (xupra). The relevant paragraph No.6 is extracted below:*

*"6. Having heard counsel for the parties and having considered the record, what is evident is that neither the order of refusal of the certificate under section 80G(5) nor the subsequent order of the Income-tax Appellate Tribunal dealt with essential facts as to the quantum of receipts and the expenditure incurred. While there can be no dispute that the assessee asserts that it continues to hold exemption under section 12AA of the Income-tax Act, never the less, for the benefit under section 80G(5B), the requirements of that provision have to be satisfied separately."*

7. The Ld. DR relied on the order of Coordinate Bench of ITAT, Pune 'A' Bench in case of **Smt. Mangla Ramniwas Mandhani ABMM Awas Yojna Foundation vs CIT(E)** reported in **(2024) 162 taxmann.com 842 (Pune Trib.)** where the assessee trust was granted provisional approval u/sec. 80G(5) and thereafter, the assessee filed an application in Form No.10AB after delay of more than six months. Since Commissioner(Exemption) denied the said claim before issue of CBDT Circular no.07/2024 dated 25.04.2024 and furthermore Tribunal was not vested with power to condone delay in filing application u/sec. 80G(5), denial of grant of approval, u/sec. 80G(5) was justified. The Ld. DR stands in favor of the order of Ld. CIT(E).

8. The next issue is related to contravening provisions of section 11(1)(c) related to payment for to the foreign countries. The relevant observations of the Ld. CIT(E) in paragraph no.5.3 is reproduced as below:

*“5.3. Further, applicant has itself stated that it has made expenses outside India, details of which are reproduced as under:*

	FY 2024-25		FY 2023-24		FY 2022-23		FY 2021-22	
Foreign Expenses	INR	Euros	INR	Euros	INR	Euros	INR	Euros
International Council for Ad Self-Regulation (ICAS)- Membership	5,70,739	6,360	5,72,386	6,360	3,36,527	3,825	2,64,826	3,000
International Council for Ad Self-Regulation ICAS Global Think Tank Contribution	11,04,119	12,000						
Rocket Marketing (Reech) – Data for Influencer Monitoring	10,75,623	13,008	14,22,719	15,610	1,47,6738	17,693	13,39,182	15,610
<b>Total</b>	<b>27,50,481</b>	<b>31,368</b>	<b>19,95,105</b>	<b>21,970</b>	<b>18,13,265</b>	<b>21,518</b>	<b>1604008</b>	<b>18,610</b>

*From above, it can be clearly seen that the applicant has been consistently applying funds outside India and thus the said expenses are in violation of provisions of section 11(1)(c) of the Act. Also, the applicant has not obtained prior approval from the Board before undertaking such activities outside India, as mandated by the proviso below section 11(1)(c) of the Act. Applicant ought to have obtained such approval from the Board before undertaking such activities outside India. However, it has failed to do so.”*



9. The Ld. AR argued and stated that the application out side India refers to income applied for the benefit of person outside India. The assessee operates as a self-regulatory body for consumer protection in advertising within India. The core activities exclusively within Indian territory. The assessee paid subscription for obtaining affiliation with International Advertising Council. The payment to ICAS-Membership is due to seeking the international affiliation outside India. The assessee subscribed to software service from foreign vendors. The software are deployed and consumed entirely in India for charitable activities such as education, healthcare, administration and governance. The Ld. AR contended that the identical issue is duly dealt by the Coordinate Bench of ITAT Mumbai in the case of **Aditya Birla Education Trust vs CIT** reported in **(2025) 178 taxmann.com 604 (Mumbai-Trib.)** the relevant paragraph nos. 22 to 22.1 is reproduced as below:

*"22. We have carefully considered the rival submissions, the paper book filed, and the impugned order of t of the Ld. CIT(E). The rejection of registration is due to modification of object of the of the trust deed in object clause 7(II) (A)(k), 7(II)(A)(l) and 7(iii). The Ld. CIT(E) has taken this as gross violation of section 11 & 13 of the Act in result the application for registration is rejected. Here, the following findings emerge:*

*On Expenditure Outside India:*

**22.1.** *The assessee trust is imparting Cambridge and IB curriculum in India, and the foreign remittances are essentially for exam fees, subscriptions, and training of educators. all for the purpose of imparting education within India. Reliance placed by the Ld. CIT(E) on Section 11(1)(c) of the Act is misplaced, since the assessee claims exemption u/s 11(1)(a) of the Act. The Ld. DR specifically relied on the fact that the assessee paid foreign remittance Rs. 6.5 crore to university outside India which gross violation of the Section 11 of the Act. We note that the assessee promotes advancement of educational institutional activities in all its branches such as kindergarten, primary, secondary and high school and colleges, both of Indian and international curriculum, leading up to and teaching degree courses in Arts, Science, Commerce, Law, Management, Engineering, Medicine, Pharmacy, Music, Fine Arts, Architecture and such other*

*educational subjects which are at large general public utility. We find that the payment to foreign education institution for expenses towards the charitable activities carried out in India cannot be disallowed. If such an interpretation is taken, then, no charitable hospital will be able to import any equipment, machinery or medicines from a foreign country. Considering, the National Education Policy, 2020 (supra) the students should get the knowledge in foreign education befitting for their future development. Jurisprudence Ohio University Christ College (supra), Gem & Jewellery Export Promotion Council (supra), J.N. Tata Endowment (supra) and Dedhia Music Foundation (supra) clearly establishes that the activities carried out by the assessee are wholly undertaken within India and any collaboration with international institutions is solely to support and promote advancement of education in India and therefore, entering into such collaborations does not constitute a violation of section 11 of the Act. The payments made to overseas institutions are exclusively towards activities in connection with educational and charitable activities carried out in India and therefore, the same do not amount to application of funds outside India. We respectfully follow the orders mentioned above. Accordingly, it does not constitute violation of section 11 of the Act.”*

10. The Ld. DR argued and stated that the assessee had violated the provisions of section 11(1)(c) for payment outside India. So, in any case the registration cannot be allowed. He stands in favor of the order of revenue authority.

11. We have heard the rival submissions and perused the material available on record. The first issue relates to the rejection of the application by the Ld. CIT(E) on account of delay in filing Form No. 10AB. During the course of hearing, the assessee has raised an additional ground and furnished additional evidence demonstrating that it was already holding a valid approval under section 80G of the Act prior to the amendments introduced by the Finance Act, 2020, and was thus eligible for revalidation under the amended provisions. The said additional evidence, being crucial for proper adjudication of the issue, goes to the root of the matter and, in our considered view, deserves to be admitted in the interest of justice. On consideration of the additional ground and supporting evidence, we

find merit in the contention of the assessee that the application filed on 21.02.2025 requires fresh examination in light of the earlier registration and the applicable provisions governing revalidation. Since these aspects were not before the Ld. CIT(E), the issue of delay and consequent rejection of the application cannot be adjudicated conclusively at this stage. The judgments relied by the Ld. DR are factually distinguishable. Accordingly, we set aside the impugned order on this issue and restore the matter to the file of the Ld. CIT(E) for fresh adjudication in accordance with law, after considering the additional evidence and submissions filed by the assessee & direct to pass a speaking order after the reasonable opportunity shall be allowed to assessee.

12. The second issue pertains to the alleged violation of section 11(1)(c) of the Act on account of foreign expenditure incurred by the assessee. From the facts on record, it is evident that the payments made to foreign entities are in the nature of subscription, affiliation fees, and software services, which are utilized for carrying out charitable activities within India. The Ld. AR has demonstrated that the core activities of the assessee are confined to India and the foreign remittances are incidental to and in furtherance of such activities. We find that an identical issue has been considered by the Coordinate Bench of the Tribunal in the case of **Aditya Birla Education Trust** (supra), wherein it has been held that payments made to foreign entities for the purpose of carrying out charitable activities in India do not amount to application of income outside India and, therefore, do not constitute a violation of section 11(1)(c) of the Act. Respectfully following the said decision, we hold that the observations of the Ld. CIT(E) on this

issue are not sustainable. Accordingly, the second issue is decided in favour of the assessee.

13. Hence, the first issue is set aside to the file of the Ld. CIT(E) for fresh adjudication on the basis of the additional ground and evidence, and the second issue is allowed in favour of the assessee.

14. In the net result, the appeal of the assessee bearing **ITA No.7915/Mum/2025** is partly allowed for statistical purpose.

Order pronounced in the open court on 20<sup>th</sup> day of April 2026.

Sd/-

(OM PRAKASH KANT)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 20/04/2026  
SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI