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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 199/2025

MOGLYKIDS FOUNDATION .....Petitioner

Through: Mr Sidhartha Das with Mr Gajanand Kirudiwal and Ms Rubal Bansal Maini, Advocates.

versus

COMMISSIONER OF INCOME TAX (EXEMPTION) .....Respondent

Through: Mr Gaurav Gupta, SSC with Mr Shivendra Singh and Mr Yojit Pareek, Advocates.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **09.01.2025**

CM APPL. 866/2025

1. Exemption allowed, subject to all just exceptions.

2. The application is disposed of.

W.P.(C) 199/2025 and CM APPL. 865/2025

3. Issue notice. The learned counsel appearing for the Revenue accepts notice.

4. The petitioner has filed the present petition impugning an order dated 30.08.2024 passed by the respondent under Clause (ii)(b)(B) of the second proviso to Section 80G(5) of the Income Tax Act, 1961 (hereafter *the Act*) whereby the petitioner's request for grant of approval under Section 80G(5)(iv) – Item B is rejected and the provisional approval granted in

terms of an order dated 18.03.2023 for the Assessment Year (AY) 2024-25 to AY 2026-27 is cancelled. The petitioner assails the impugned order on the ground that the petitioner was not afforded any opportunity to be heard. The petitioner was issued a notice dated 01.03.2024 fixing the hearing in respect of the aforementioned application on 18.03.2024 at 11.00 A.M. Similarly, the hearings were fixed on two further occasions as well. It is contended that the petitioner had appeared on each of the three occasions but no hearing was afforded to the petitioner.

5. The learned counsel appearing for the Revenue submits that no oral hearing was required to be given to the petitioner as the petitioner had not sought any opportunity to be heard. We find the said contention to be unpersuasive, considering that the notice issued by the Revenue expressly noted that a hearing was fixed on the date and time specified in the notices.

6. In view of the above, the impugned order is set aside and the matter is remanded to the respondent for considering the petitioner's application afresh after affording the petitioner an opportunity to be heard. The petition is allowed in the aforesaid terms. Pending application shall also stands closed.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 09, 2025/tr

Click here to check corrigendum, if any