

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'B' BENCHES :: PUNE

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &
SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.711/PUN/2023

Sanj Sawali Care Foundation, 11/58, Beside Ratnaprabha Motors, Opp. Kalpak Lawn, Beed By Pass Road, Satara Parisar, Deolaiparisar, Aurangabad, Maharashtra. PAN: AAWTS 0400 N	vs	CIT (Exemptions), Pune.
Appellant		Respondent

Assessee by	:	Shri Bhuvanesh Kankani, CA
Revenue by	:	Shri Ajay Kumar Kesari, DR
Date of hearing	:	05/12/2023
Date of pronouncement	:	06/12/2023

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of Commissioner of Income Tax [Exemptions], Pune (for short, 'CIT(E)'), dated 31.05.2023 as per the grounds of appeal on record.

2. The grievance of the assessee in this case is the rejection of application for granting exemption u/sec. 80G(5) of the Income Tax Act, 1961 (for short, 'the Act').

3. The provisions of sec.80G of the Act is a beneficiary provision provided to the trust-society wherein it is a support given from the Government, so that once the said trust or society gets exemption

u/sec. 80G of the Act whosoever making donations in the said trust or society, shall get the benefit of 80G while filing their respective income tax returns and whatever amount of donation that has been made to such registered and exempted trust or society, the donor shall get benefit of exemption u/sec. 80G to the extent of 50% and even more in some cases of the said amount that has been donated. Therefore, in order to decide whether particular trust or society qualifies for getting exemption u/sec. 80G, it is pertinent for the Department to verify the genuineness of the activities conducted by such trust and further whether the funds are utilized for the purpose of charitable activities as enshrined in the object of the trust and whether the funds are spent in accordance with the provision of sec. 80G of the Act. That, these factors should be considered on merits while granting or rejecting the application for exemption u/sec. 80G of the Act. In the present case of the assessee, it is evident from para 2.3 of the order of the Id.CIT(E) that certain documentary evidences were asked from the assessee by the office of the Id.CIT(E) in order to determine the merits of the application. The assessee has not filed any details or explanation before the Id.CIT(E). That, finally it is observed at para 5.9, the application for getting exemption u/sec. 80G(5) has been dismissed by the Id.CIT(E) on the ground of limitation even without going into the merits of the case.

4. At the time of hearing before us, Id.AR for the assessee submitted his willingness to file all the necessary documentary

evidences before the Id.CIT(E) and prayed for one final opportunity be given in this regard and he also submitted that the application of the assessee should be decided on merits.

5. We are of the considered view that it is a case where the application for exemption sought for was filed by the assessee, and for want of supporting evidences, the matter remained un-adjudicated by the Department and finally rejected only on the ground of limitation without adjudication on merits. It has to be appreciated that the purpose of the provisions for registration of trust u/sec. 12AA and for granting exemption u/sec. 80G, all these sections derives their spirit from the Directive Principles of State Policy enshrined in the Constitution of India. Since, the Govt. of India makes endeavor to provide welfare to one and all in the society at large and in view thereof the registration for public charitable trusts are given in order to ensure that through these charitable trusts benefits should flow to the entire society wherefrom various charitable activities, the entire society is benefited and the objectives of the Govt. of India in furtherance to the Directive Principles of State Policy are achieved. These provisions for the trust registration and granting of exemption u/sec. 80G enhance the socio economic welfare in the society. Furthermore, the Income Tax laws are welfare legislations and not penal in nature. Therefore, in the interest of justice and considering all the aforesaid observations, we are of the considered view that one final opportunity should be provided to the assessee to file the

relevant details before the Id.CIT(E) and present their case on merits. That, after all the power always remains with the Id.CIT(E) as per the Act to either grant or reject the application regarding the concerned issue but that decision should come after examining and verifying all documentary evidences furnished by the applicant-assessee. In view thereof, we set aside the order of the Id. CIT(E) and remand the matter back to his file with the aforesaid directions and the Id. CIT(E) shall adjudicate *denovo* as per law complying with the principles of natural justice. Grounds of appeal of the assessee stands allowed for statistical purpose.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 06th December, 2023.

Sd/-
(G.D. PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 06th December, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "B" Bench Pune.
5. Guard File.

By Order

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Senior Private Secretary
ITAT, Pune.