

**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI  
BEFORE SHRI JASON P. BOAZ, AM AND SHRI SANDEEP GOSAIN, JM**

आयकर अपील सं./ I.T.A. No. 5873/Mum/2012

(निर्धारण वर्ष / Assessment Year: 2012-13)

Parmanand Foundation Shop No.8, Tripti Sadan, Shantawadi, Andheri (W), Mumbai-400 058.	<b>बनाम/ Vs.</b>	Director of Income-Tax (Exemption) 6 <sup>th</sup> Floor, R.N. 616, Piramal Chambers, Parel, Mumbai-12.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.		AGSPK 3020G
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से/Respondent by	:	Shri Prakash Ojha

सुनवाई की तारीख / Date of Hearing	:	20/11/2015
घोषणा की तारीख / Date of Pronouncement	:	10/08/2016

**आदेश / ORDER**

**Per Sandeep Gosain, Judicial Member:**

The Present Appeal has been filed by the assessee against the order of The Director of Income –Tax (Exemption) passed u/s 80G of the Act dated 16.08.2012 on the grounds of appeal mentioned herein below.

- “1. *On the facts and under the law as per the provisions of the section 80G(5) read with rule 11AA of the Act and It rules 1962 (The Rules), the learned DIRECTOR OF INCOME- TAX (EXEMPTION) Mumbai has erred by passing an order rejecting the request of the assessee appellant trust for grant of certificate u/s 80G, beyond the limitation period of 6 months from the date of application as provided under rule 11AA of the Rules. Therefore it is to be presumed that such order is invalid and the appellant trust is presumed to have been granted a certificate u/s 80G on lapse of time of limitation and necessary instruction for issue of such certificate be given to the office of the Director of Income tax (Exemption) Mumbai.*
2. *On the facts and under the law as per the provisions of the section 80G(5) read with rule 11AA of the Act and It rules 1962 (The Rules). the learned DIRECTOR OF INCOME-TAX (EXEMPTION) has erred by passing an order rejecting the request of the assessee appellant trust for grant of certificate u/s 80G, travelling beyond the scope of enquiry and reasons for rejections provided under the said provisions of the Act and the Rules and giving a reason for rejection which is beyond the valid reason provided under Rule 11AA(5) of the Rules as" where is the commissioner is satisfied that one or more of the conditions laid down in clause (i) to (v) of sub section (5) of section 80G are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing ." And whereas al the conditions laid in clause (i) to (v) of sub section 5 of section 80G are compiled by the appellant assessee trust.*
3. *The appellant reserves the right to add, amend, modify, or subtract any ground of appeal at any stage or hearing.”*

2. The brief facts of the case are that the assessee trust i.e. Parmanand Foundation had filed an application on 25.11.2011 for grant of certificate u/s 80G of the I.T. Act, 1961. As per the assessee the application was made in the prescribed form 10G and was accompanied with various details and documents. The Director of Income-Tax (Exemption) after seeking reply and details from the assessee/applicant had rejected the application for grant of certificate u/s 80G of the Act vide order dated 16.08.2012.

3. Aggrieved by the order of The Director of Income-Tax (Exemption) the assessee filed the present appeal before us on the grounds mentioned herein above.

4. At the very outset, when the case was called for hearing, none has appeared on behalf of assessee and on the perusal of order sheet we have noticed that nobody was appearing on behalf of assessee for the last dates. Although the notices were also served upon the assessee for appearing before us, but even then the assessee has not preferred to appear and even no application for adjournment was moved before us. On the other hand ld. DR is present in the court and is ready with arguments. Therefore we have decided to proceed with the hearing of the case ex-parte with the assistance of the ld. DR and the material on record.

#### Ground No.1 &2

Both the grounds raised by the assessee relates to rejecting the request for grant of certificate u/s 80G and since both grounds are inter-connected and inter-related therefore we thought it fit to dispose off the same through the present common order.

5. Before we come on to the merits of the case we want to analyse the orders passed by The Director of Income-Tax (Exemption) and the operative para of the same is reproduced below:

*"4. In response to the same the trust has made its submission on 13.06.2012 & 18.07.2012. The relevant portion of the submission is reproduced as under :-*

*'The trust has carries out the charitable activity and the copy of such proof has been already been submitted to your good office with letter dated 28.12.11. Further the fund which lies been received by the trust subsequently is towards the corpus of the trust with specific purpose for developing training and meditation center within the state of Maharashtra and they will be utilized for that specific purpose on accumulation of required/ requisite fund. Thus as point out by your good office that no charitable activity has been carried out by the trust is not correct.*

*With regards to details of donation received including the corpus is enclosed herewith for your ready reference. In this regards we would like to state that the trust had organized function regarding there future prospects and in this regards they had collected the donation which has been deposited into the bank. The list of donor alongwith the photgraph and coverage of the same in the local newspaper of the function are enclosed herewith. Thus it can be seen that trust has initiated the process to take the donation so that the purpose of the trust can be achieved and it can arrange for the requisite fund for the same through donation."*

*4. The submission made by the trust is duly considered. In the submission filed on 28.12.2011 the trust has filed xerox copy bill dated 02.05.2011 issued by Asha Traders amounting to Rs.1 ,326/- towards purchase of notebooks, compass box, school bag etc. However the bill issued is not genuine since cs pointed out above, ill the audited Income & expenditure account filed as on 31.03.11 & 31.03.12, this expenses is not reflected. The genuinity of these expenses IS {nus not proved. Moreover the trust has not offered any explanation why the expenses incurred is not reflected in the income & expenditure account.*

*5. Out of the total donation received of Rs.6,52,361/- the corpus donation is Rs.90,000/-. The trust has received generation donation of Rs.5,62,361/- which was required to be used for the charitable objects towards poverty, education and relief to poor, which the trust has failed to do so inspite of having funds. Besides the purpose or getting approval u/s.80G is to encourage more donations from donors which could be certified for charitable purpose which an institution is pursuing. However m the present case the trust is having surplus funds as its accounts which remained to be utilized by it where questions arises for getting*

*more donations from donors and taking approval u/s.80G of I.T. Act when no charitable activities are being carried out by the trust.*

*6. As the trust has failed to carry out the charitable activities as per its objects inspite of having funds in form of generation donations received the application made for certificate u/s.80G is hereby rejected.”*

5.1 After analyzing the afore mentioned order, we found that the DIT(E) has duly considered the documents/details filed by the assessee and has recorded a finding to the effect that the bill issued are not genuine as these expenses are not reflected in the audited Income & expenditure account and since the genuinity of these expenses were not proved by the applicant and no explanation was offered as to why the expenses incurred are not reflected in the Income & expenditure account. The DIT(E) also observed that the trust has received generation donation of Rs.5,62,361/- which was required to be used for the charitable objects but the trust has failed to do so. The DIT(E) also found that in the present case the trust is having surplus funds in its account which remained un-utilized. Therefore no questions has arisen for getting more donations from donors and taking approval u/s 80G of the Act when more particularly no charitable activities are being carried out by the trust.

7. After analyzing the afore mentioned order we found that the CIT(A) has dealt with all the issues and has passed judicious and well reasoned order and no new circumstances have been brought before us in order to controvert or rebut the

findings recorded by the CIT(A). Therefore, we see no reason to deviate or interfere into the findings recorded by the CIT(A) and hence, we reject these grounds raised by the assessee and uphold the order of the CIT(A).

8. In the result, the assessee's appeal is dismissed.

*Order pronounced in the open court on 10th August, 2016*

Sd/-  
(Jason P. Boaz)

लेखा सदस्य / Accountant Member

Sd/-  
(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

मुंबई Mumbai; दिनांक Dated :10.08.2016

Ps. Ashwini

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**

**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**