

IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
AND SHRI JASON P. BOAZ, ACCOUNTANT MEMBER

ITA No.1483 & 1484/Bang/2016
Assessment year : N.A.

Al-Habeeb Educational & Charitable Trust, Habeeb Estate, Milath Nagar, Ring Road, Kalaburgi – 585 104. <b>PAN: AAETA 1038Q</b>	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri G. Venkatesh, Advocate
Respondent by	:	Shri Sunil Kumar Singh, CIT(DR)-I

Date of hearing	:	07.11.2017
Date of Pronouncement	:	10.11.2017

**ORDER**

*Per Sunil Kumar Yadav, Judicial Member*

These appeals are preferred by the assessee against the respective order of the CIT(Exemptions) passed u/s. 12AA(1)(b)(ii) and 80G(5)(vi) of the Income-Tax Act, 1961 [“the Act”].

2. The grounds of appeal raised in these appeals are extracted hereunder for the sake of reference:-

ITA No.1483/Bang/2016

“1. The impugned order of the Commissioner of Income Tax (Exemptions), Bengaluru, passed under section 12AA(1) of the

Income Tax Act, 1961 is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.

2. The learned Commissioner of Income Tax (Exemptions) has completely disregarded the objects of the appellant trust as contained in the Deed of Trust and failed to appreciate that the appellant trust is established only for charitable purposes.

3. The learned Commissioner of Income Tax (Exemptions) ought to have considered the documents and materials already brought on record which were adequate to examine and decide on the genuineness of the activities of the appellant on the facts and circumstances of the case.

4. The learned Commissioner of Income Tax (Exemptions) is not justified in holding that the appellant has not produced the amended trust deed and other documents hence the genuineness of the activities cannot be verifiable and consequently rejecting the application for registration u/ s 12AA of the Act on the facts and circumstances of the case.

5. The learned Commissioner of Income Tax (Exemptions) ought to have appreciated that the necessary documents were submitted to the office of the CIT(E), on the facts and circumstances of the case.

6. Without prejudice, the Commissioner of Income Tax (Exemptions) is not justified in passing the order under section 12AA(1) of the Act without providing adequate opportunity to the appellant of being heard and thus the impugned order is passed in violation of principles of natural justice.

7. The appellant craves for leave of this Hon'ble Tribunal, to add, alter, delete, amend or substitute any or all of the above grounds of appeal as may be necessary at the time of hearing.

8. For these and other grounds that may be urged at the time of hearing of appeal, the appellant prays that the appeal may be allowed for the advancement of substantial cause of justice and equity.”

ITA No.1484/Bang/2016

- “1. The impugned order of the Commissioner of Income Tax, Gulbarga, passed under section 80G(5) of the Income Tax Act, 1961 is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant' s case.
2. The learned Commissioner of Income Tax (Exemptions) has completely disregarded the objects of the appellant trust as contained in the Deed of Trust and failed to appreciate that the appellant trust is established only for charitable purposes.
3. The learned Commissioner of Income Tax (Exemptions) ought to have considered the documents and materials already brought on record which were adequate to examine and decide on the genuineness of the activities of the appellant on the facts and circumstances of the case.
4. The learned Commissioner of Income Tax (Exemptions) is not justified in holding that the appellant has not produced the amended trust deed and hence the genuineness of the activities cannot be verifiable and thereby rejecting the registration u/ s 12AA of the Act and consequently rejecting the application for recognition u/s 80G of the Act on the facts and circumstances of the case.
5. The learned Commissioner of Income Tax (Exemptions) ought to have appreciated that the necessary documents were submitted to the office of CIT(E), on the facts and circumstances of the case.
6. Without prejudice, the Commissioner of Income Tax (Exemptions) is not justified in passing the order under section 80G(5) of the Act without providing adequate opportunity to the appellant of being heard and thus the impugned order is passed in violation of principles of natural justice.
7. The appellant craves for leave of this Hon'ble Tribunal, to add, alter, delete, amend or substitute any or all of the above grounds of appeal as may be necessary at the time of hearing.
8. For these and other grounds that may be urged at the time of hearing of appeal, the appellant prays that the appeal may be

allowed for the advancement of substantial cause of justice and equity.”

3. The facts in brief borne out from the record are that the CIT(Exemptions) has denied registration u/s. 12AA of the Act on the ground that assessee has not furnished relevant information and the evidence of charitable activities undertaken by the assessee. Since the registration u/s. 12AA was denied, the CIT(E) also denied recognition u/s. 80G(5)(vi) of the Act.

4. During the course of hearing, the Id. counsel for the assessee has invited our attention that he has filed complete details before the CIT(E), but he did not take it into account and dismissed the application for registration summarily. In support of his contention, he invited our attention to the paperbook with the submission that detailed evidence was filed before the CIT(E) during the course of hearing, but he did not take cognizance of the same and rejected the application for registration. Therefore, the matter be sent back to the CIT(E) to adjudicate the issue afresh in the light of evidence filed by the assessee.

5. The Id. DR placed reliance upon the order of CIT(E).

6. Having carefully examined the orders of lower authorities and the paperbook filed by the assessee, we find that in the paperbook the assessee has given a certificate that he has filed all relevant evidence before the CIT(E). The paperbook comprises of copy of application for registration, audited statement of accounts for the FY 2013-14 to 2014-15, copy of original trust deed and amended trust deed, list of trustees, copy of PAN card, copies of photographs showing the activities of the trust, etc. These evidence were not taken into account by the CIT(E). In the light of these facts, we are of the view that the CIT(E) has not applied his mind properly to the facts of the case and has rejected the application for

registration u/s. 12AA summarily. Therefore, we set aside his order passed u/s. 12AA and 80G(5)(vi) of the Act and restore the matter to his file with a direction to readjudicate the application for registration u/s. 12AA and application for recognition u/s. 80G(5)(vi) of the Act afresh in the light of evidence furnished by the assessee, after affording opportunity of being heard to the assessee.

7. In the result, the appeals of the assessee are allowed for statistical purposes.

Pronounced in the open court on this 10<sup>th</sup> day of November, 2017.

Sd/-

( JASON P. BOAZ )  
Accountant Member

Sd/-

( SUNIL KUMAR YADAV )  
Judicial Member

Bangalore,  
Dated, the 10<sup>th</sup> November, 2017.

/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary  
ITAT, Bangalore.