

आयकर अपीलीय अधीकरण, न्यायपीठ – “A” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**  
 (समक्ष) Before श्री पी.एम .जगताप, लेखा सदस्य एवं/and श्री ऐ. टी. वर्की, न्यायीक सदस्य)  
 [Before Shri P. M. Jagtap, AM & Shri A. T. Varkey, JM]

**I.T.A. No. 1399/Kol/2017**  
**Assessment Year: 2017-18**

Sushila Shyama Charan Saha Foundation (PAN: AARTS6421J)	Vs.	Commissioner of Income-tax (E), Kol.
Appellant		Respondent

Date of Hearing	20.12.2017
Date of Pronouncement	07.03.2018
For the Appellant	Shri Anil Kochar, Advocate
For the Respondent	Shri G. Mallikarjuna, CIT, DR

**ORDER**

**Per Shri A.T.Varkey, JM**

This is an appeal preferred by the assessee foundation against the action of Ld. CIT(E), Kolkata not granting approval u/s. 80G of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) vide order dated 04.05.2017.

2. The assessee foundation came into existence vide Deed of Trust executed on 09.09.2016 and filed an application in Form 10G for approval of exemption u/s. 80G of the Act on 04.11.2016. The Ld. CIT(E) has observed that the Ld. AR appeared and furnished documents as per requisition and that during hearing dated 11.04.2017 specific questions were asked regarding why the Trust needs approval u/s. 80G of the Act and then the Ld. CIT(E) observed that the case was discussed with him and after hearing the case he was of the view that this is not a fit case for approval u/s. 80G of the Act. The aforesaid fact emanating from the impugned order, which Ld. CIT(E) has observed is reproduced as under:

*“Shri Anil Kochar, A/R, appeared from time to time and furnished documents as per requisitions. During hearing dated 11.04.2017, specific questions were asked regarding why the Trust needs*

*approval u/s. 80G. the case was also discussed with him. After the hearing and discussions with him I am of the view that this is not a fit case for approval u/s. 80G of I. T. Act, 1961.*

*Therefore, the application for approval u/s. 80G is REJECTED. This is also held that, the applicant Trust is not approved for exemption to donations u/s. 80G of the Income-tax Act, 1961."*

3. We have heard rival submissions and gone through the facts and circumstances of the case. The main grievance of the assessee is that the application for approval u/s. 80G of the Act has been rejected by the Ld. CIT(E) without assigning any reason. After perusal of the order, we find that it is cryptic in nature and has not spelt out any reason for rejecting the application for approval u/s. 80G exemption, when the assessee is enjoying 12AA registration. It has to be remembered that the reason is the soul of a judicial or quasi judicial order. The impugned order lacks any reason whatsoever discernible from the same which makes the order bad in law for arbitrariness on the part of the Ld. CIT while adjudicating the application for approval u/s. 80G of the Act. Therefore, we set aside the order of the Ld. CIT(E) and remand the matter back to the file of the Ld. CIT(E) to pass a speaking order in accordance to law after giving reasonable opportunity of being heard to the assessee. Appeal of assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 07.03.2018

Sd/-  
(P. M. Jagtap)  
Accountant Member

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated : 7<sup>th</sup> March, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Sushila Shyama Charan Saha Foundation, C/o, S. L. Kochar, Advocate, 86, Canning Street, Kolkata-1.
- 2 Respondent – CIT(E), Kolkata
3. The CIT(A) Kolkata.
4. CIT Kolkata
5. DR, ITAT, Kolkata.

/True Copy,

By order,

Sr. Pvt. Secretary