

**IN THE INCOME TAX APPELLATE TRIBUNAL "A", BENCH KOLKATA**

**BEFORE SHRI A. T. VARKEY, JM & DR. A.L.SAINI, AM**

**आयकरअपीलसं./ITA Nos.1822/Kol/2017**

<b>Keshab Smarak Sanskriti Surabhi</b>	<b>Vs.</b>	<b>C.I.T – Exemption, Kolkata</b>
Kesab Niketan, S.D. Lane, Ambicapally, Silcher, Dist – Kachar (Assam), Pin – 788004.		10B, Middleton Row, Kolkata – 700071.
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. : AAATK 8981 C</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri V.N. Purohit, FCA & H.V. Bhardwaj, ACA  
Respondent by : Shri P.K. Srihani, CIT(DR)

सुनवाईकीतारीख/ **Date of Hearing** : **09/04/2018**

घोषणाकीतारीख/**Date of Pronouncement** : **20/04/2018**

**आदेश / O R D E R**

**Per Dr. A. L. Saini:**

The captioned appeal filed by the assessee, is directed against the order passed by the Commissioner of Income Tax (Exemption) [hereinafter referred to as the 'CIT(Exemption)'], Kolkata, under section 80G of the Income Tax Act, 1961 (hereinafter referred to as the 'Act'), dated 27.03.2017.

2. The appeal filed by the assessee trust, is barred by limitation by 73 days. The assessee has moved a petition requesting the Bench to condone the delay. We heard the party on this preliminary issue. Having regard to the reasons given in the petition, we condone the delay and admit the appeal for hearing.

3. In this appeal, the assessee is challenging the action of the Id. CIT(Exemption) denying of approval u/s 80G of the Income Tax Act, 1961.

4. The assessee trust came into existence vide Certificate of Registration dated 25.01.1989. The aforesaid society filed an application in Form 10G for approval of exemption u/s 80G of the Act, 1961, on 07.10.2016. The Id. CIT(Exemption) has denied approval u/s 80G of the Act stating that assessee's case is not a fit case for approval u/s 80G of the Act.

Therefore, considering the above reason, the Id. CIT(Exemption) rejected the application for approval u/s 80G of the Act.

5. Aggrieved by the order of the Id. CIT(Exemption), the assessee is in appeal before us.

6. We have given a careful consideration to the rival submissions and perused the materials available on record and after hearing the Id. DR for the Revenue, we note that Id CIT(E) has passed the order rejecting approval U/s 80G of the Income Tax Act 1961, merely stating that he was of the opinion that " this is not a fit case for approval U/s 80G of the Income Tax Act". Having gone through the order of Id. CIT(E), we note that the rejection of approval under section 80G of the Income Tax Act, is without assigning any reason or without passing speaking order. The Id. CIT(E) did not explain the reasons as to why the assessee's case is not a fit case for approval under section 80G of the Act.

The Id Counsel for the assessee submitted before us that registration certificate of the trust under section 12AA is in force and has not been cancelled by the Id CIT (E ). The assessee trust has been carrying on charitable activities as per its object clause and in spite of this, Id. CIT(E) has denied approval under section 80G of the Act without assigning any reasons.

We note that assessee's trust registration under section 12AA has not been cancelled therefore a reasonable presumption can be drawn that assessee's trust is carrying on charitable activities within its objects.

We are of the opinion that so far as grant of registration u/s 12AA of the Act is concerned, the CIT(Exemption)'s jurisdiction is only to verify the objectives of the institution and genuineness of the activities, meaning thereby that, he has to satisfy himself that the objects are charitable in nature and the activities being carried on or to be carried on are genuine, meaning thereby that, they are in consonance for achieving of charitable object and nothing else.

Considering the factual position explained above, we are of the view that this issue needs to be examined by the Id. CIT(E) that why the assessee's case is not fit for approval under section 80G of the Act. Therefore, we direct the IdCIT(E) to examine the objectives of the trust and the fact that registration certificate of the trust U/s 12AA is in force, and then, in that circumstances why and how the approval U/s 80G of the Act should not be granted. Therefore, we deem it fit and appropriate in the interest of justice and fair play to give directions to CIT(E) to adjudicate the issue in accordance with law after providing opportunity to the assessee of being heard.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 20/04/2018.

**Sd/-**  
**(A. T. VARKEY)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**कोलकाता /Kolkata;**

**दिनांक/ Date: 20/04/2018**

**(RS, SPS)**

**Sd/-**  
**(A.L. SAINI)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant- Keshab Smarak Sanskriti Surabhi
2. प्रत्यर्थी/ The Respondent- C.I.T – Exemption, Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT,  
Kolkata
6. गार्डफाईल / Guard file.  
सत्यापितप्रति

True Copy

By Order

Senior Private Secretary,  
Head of Office/D.D.O,  
I.T.A.T, Kolkata Benches,  
Kolkata.