

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, जे, मुंबई।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "J", MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं
श्री एन. के. प्रधान, लेखा सदस्य, के समक्ष
**Before Shri Joginder Singh, Judicial Member, and
Shri N.K. Pradhan, Accountant Member**

ITA NO.1351/Mum/2017

Jaswantraj Bhoruka Smarak Trust, 3 rd Floor, Amba Bhavan, 84-Business, Broach Street, Masjid (East), Mumbai-400009	बनाम/ Vs.	CIT(Exemp.), 6 th Floor, Piramal Chambers, Parel, Mumbai-400012
(निर्धारिती / Assessee)		(राजस्व / Revenue)
P.A. No. AABTJ5943L		

निर्धारिती की ओर से / Assessee by	Shri Ryansaldanha
राजस्व की ओर से / Revenue by	Shri Ajit K. Srivastav-DR

सुनवाई की तारीख / Date of Hearing :	04/07/2018
आदेश की तारीख /Date of Order:	04/07/2018

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The assessee is aggrieved by the impugned order dated 30/11/2016 of the Ld. CIT(Exemption), Mumbai, in not

granting approval under section 80G of the Income Tax Act, 1961 (hereinafter the Act).

2. During hearing, the ld. counsel for the assessee, Shri Ryansaldanha, contended that the assessee filed application for granting approval under section 80G on 20/02/2014 and order was passed on 30/11/2016 beyond a period of six months. Our attention was invited to Rule-11AA(6) of the Rules as per which the order was to be passed within six months. It was also explained that the notice dated 22/02/2016 was never received by the assessee. It was pleaded that approval under section 80G of the Act may be granted to the assessee. On the other hand, the ld. CIT-DR , Shri Ajit Kumar Srivastava, defended the denial of exemption to the assessee.

2.1. We have considered the rival submissions and perused the material available on record. The facts, in brief, are that the assessee is a charitable trust, registered under section 12AA of the Act by the competent authority on 26/02/2014. The objects of the trust is to provide

educational, medical and charitable activities. The trust was constituted by trust deed dated 08/11/2011 and also registered with the charity commissioner on 01/08/2012. The assessee made an application on 28/02/2014 for granting approval under section 80G of the Act. The Income Tax Officer (technical) issued a notice under section 142(1) of the Act on 02/04/2014, wherein, the assessee attended on 16/05/2014 and filed the necessary details. The Ld. Assessing Officer further asked for additional details which were filed on 18/06/2014. The Ld. Income Tax Officer issued another notice on 23/07/2014, which was also attended by the assessee on 12/08/2014. The ld. CIT(Exemption) passed an order on 30/11/2016 rejecting the application on the ground that no details were filed by the assessee. It seems that there is some confusion out of which probably the Ld. Income Tax Officer(Technical) did not brought to the notice of the Ld. CIT(Exemption) that the assessee has already filed the necessary details. Though there is a decision in favour of the assessee in SJA Alumni Association vs CIT (2017) 47 ITR (T) 274 (Del.)(Trib.), wherein, the application moved for

approval under section 80G of the Act was rejected after 11 months, it was held that the assessee is entitled to approval under section 80G of the Act still, we are of the view that the ld. CIT(Exemption) is expected to examine the case of the assessee on merit and to decide in accordance with law, therefore, in all fairness, we deem it appropriate to remand this appeal to the file of the Ld. CIT(Exemption), to examine the claim of the assessee and decide in accordance with law. The assessee be given opportunity of being heard with further liberty to furnish evidence, if any, in support of its claim. Thus, the appeal of the assessee is allowed for statistical purposes only.

Finally, the appeal of the assessee is allowed for statistical purposes only.

This Order was pronounced in the open court in the presence of ld. representatives from both sides at the conclusion of the hearing on 04/07/2018.

Sd/-

(N.K. Pradhan)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : **04/07/2018**

Shekhar, P.S/निजी सचिव

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai
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,**