

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राँव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM AND SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 524/JP/2016
निर्धारण वर्ष/Assessment Year : 2016-17.

Kaviraja Murari Dan Shrimati Daulat Kanwar Shrimati gulab Bai Memorial Trust, Lal Bhawan, Barkat Nagar, Opp. Post Office, Tonk Phatak, Jaipur.	बनाम Vs.	Commissioner of Income Tax, (Exemptions), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AACTK 6251 F		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Shri Shrawan Kumar Gupta (Advocate)
राजस्व की ओर से / Revenue by : Smt. Rolly Agarwal (CIT)

सुनवाई की तारीख / Date of Hearing : 01.08.2018.
घोषणा की तारीख / Date of Pronouncement : 02/08/2018.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 4th April, 2016 of Id. CIT (Exemptions), Jaipur passed under section 80G(5)(vi) of the I.T. Act. The assessee has raised the following grounds :-

1. That on facts and law the order passed u/s 80G(5)(vi) on dated 04.04.2016 is bad-in-law and for various other reasons deserves to be quashed.
2. That the Id. CIT (Exemption) erred in law and as well as on the facts of the case in rejecting the application filed for grant of approval u/s 80G(5)(vi) on the basis that no activity has been started by the applicant as per the object of the trust, the application has been reject wrong and without any justification since applicant has started the activities of the trust.

3. That the Id. CIT (Exemption) order is bad-in-law and deserve to be quashed.
4. That the applicant reserves the right to add, amend, withdraw or alter any ground of appeal before the finalization of said appeal.'

2. We have heard the Id. A/R as well as the Id. D/R and considered the relevant material on record. The assessee is a charitable society which was created vide Trust Deed dated 29th June, 2015 registered with Sub-Registrar, Jaipur. The assessee society filed application for registration under section 12A on 05.10.2015 and also filed an application for registration under section 80G(5)(vi) on 26.10.2015. The Id. CIT (Exemptions) while considering the application under section 80G(5)(vi) has observed that though the objects of the assessee trust are charitable in nature, however, since the assessee has not carried out any activity and the same are yet to be started, therefore, the approval under section 80G was declined while passing the impugned order. The Id. A/R has pointed out that the Id. CIT (E) granted the registration under section 12AA vide order dated 5th April, 2016 whereas the approval under section 80G was declined based on the same facts and objects of the Trust/Society. He has also filed the details of the activities carried out by the assessee society subsequent to the impugned order was passed by the Id. CIT (Exemptions) and also filed an application for admitting the additional evidence.

3. On the other hand, the Id. D/R has submitted that when assessee trust did not carry out any charitable activity, then the Id. CIT (Exemptions) was justified in declining the approval of exemption under section 80G.

4. Having considered the rival submissions as well as relevant material on record, we note that the Id. CIT (Exemptions) did not raise any objection regarding the charitable nature of the objects of the assessee society and after passing the impugned order dated 04.04.2016 the registration under section 12AA was granted to the assessee vide order dated 05.04.2016. There is no dispute that the assessee society was newly created and yet to start the activity for achieving the objects. Therefore, when the charitable purpose and objects of the assessee society are not in dispute and subsequently the assessee has carried out charitable activities as per the details filed by the Id. A/R, then in the facts and circumstances of the case, we are of the considered opinion that the Id. CIT (Exemptions) has to reconsider the matter by considering the order passed under section 12AA as well as the activities which were subsequently carried out by the assessee. Accordingly, the impugned order is set aside and matter is remanded to the record of the Id. CIT (Exemptions) for deciding the same afresh in the light of the above observations.

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

Order is pronounced in the open court on 02/08/2018.

Sd/-
(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य / Accountant Member

Sd/-
(विजय पाल राँव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Jaipur
Dated:- 02/08/2018.
Das/

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

1. The Appellant-Kaviraj Murari Dan Shrimati Daulat Kanwar Shrimati Gulab Bai Memorial Trust, Jaipur.
2. The Respondent – The CIT, Exemptions, Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 524/JP/2016)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar

