

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में ।
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR**

**BEFORE SHRI ANIL CHATURVEDI, AM
AND
SHRI PARTHA SARATHI CHAUDHURY, JM**

आयकर अपील सं. / ITA No.379/RPR/2014

M/s. Adarshila Shikshan Sangh,
3rd Floor, Ahirwad Tower,
G.E. Road, Raipur, (C.G.)

PAN : AAAAA5811H

.....अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax,
Aayakar Bhavan, Civil Lines,
Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri G.S. Agarwal
Revenue by : Shri P.K. Mishra

सुनवाई की तारीख / Date of Hearing : 14.01.2019
घोषणा की तारीख / Date of Pronouncement : 15.01.2019

आदेश / ORDER**PER ANIL CHATURVEDI, AM :**

This appeal filed by the assessee is emanating out of the order of Commissioner of Income Tax, Raipur dated 25-08-2014.

2. The relevant facts as culled out from the material on record are as under:-

Assessee is a society who filed application for grant of approval u/s. 80G of the Act before Commissioner of Income Tax on 28-02-2014. The Commissioner of Income Tax vide order dated 25-08-2014 passed u/s. 80G rejected the application for approval u/s. 80G inter alia for reason that the assessee society was engaged in commercial activities and the activities conducted by assessee cannot be considered as charitable activities. Aggrieved by the order of Commissioner of Income Tax, the assessee is now before us and has raised following grounds :

“1. *That under the facts & the law, the learned Commissioner of Income Tax erred in rejecting the application filed by the appellant for approval U/s. 80G (80G(2)(a)(iv) arbitrarily & without properly considering & appraising the facts explained before him.*

Prayed to that the appellant is eligible for approval under the above Section which kindly be granted.

2. *That the learned Commissioner of Income Tax further erred in observing that the appellant is not a Charitable Institution within the meaning of Sec. 2(15) and the appellant is carrying-on the activity on commercial line.*

Prayed that the observation is not correct, the appellant is a Charitable Institution within the meaning of sec. 2(15), registration U/s. 80G kindly be granted.

3. *That the learned Commissioner of Income Tax further erred in observing that letting-down the building to M/s. Poddar Education Network Pvt., and M/s. Poddar Education Society, Mumbai is on commercial line disentitling the appellant for registration u/s. 80G.*

Prayed that the rejection of approval u/s. 80G to the appellant is not according to law, facts and is unjustified.

Prayed that the approval u/s. 80G be granted to the appellant.”

3. All the grounds being interconnected are considered together.
4. Before us, Ld. A.R. reiterated the submissions made before lower authorities and further submitted that the assessee has been granted registration u/s. 12AA by the Commissioner of Income Tax, Raipur vide order dated 10-04-2008 and the aforesaid registration has not been cancelled till date. He pointed out the copy of aforesaid order which is placed at page 10 of the paper book. He further submitted that the Commissioner of Income Tax's observation about the assessee running its institute on commercial lines and providing commercial education for a fee which cannot be considered as education it is not a formal education, is contrary to the facts as the education imparted by the assessee are affiliated to the various universities, the details on which are placed at pages 3 to 4 of the paper book. He therefore, submitted that when the registration u/s. 12A to the assessee is still being continued, the Commissioner of Income Tax could not have rejected the application u/s. 80G and for this proposition he relied on the decision of Agra Bench of the Tribunal in the case of Dr. Gyanendra Goel Foundation Vs. Commissioner of Income Tax reported in (2018) 52 CCH 284 (Agra), the copy of which is placed in the paper book. He also relied on the decision of Hon'ble Gujarat

High Court in the case of Hiralal Bhagwati Vs. Commissioner of Income Tax reported in 246 ITR 188 (Guj.).

5. The Ld. D.R. on the other hand supported the order of Commissioner of Income and submitted that the Commissioner of Income Tax has found the activities to the assessee to be not charitable. He therefore, strongly supported the order of Commissioner of Income Tax.

6. We have heard the rival submissions and perused the material available on record. The issue in present grounds is with respect to rejection of application u/s. 80G of the Act. Before us, the Ld. A.R. has submitted that assessee has been granted registration u/s. 12AA of the Act and the registration continues till date and the aforesaid registration has not been cancelled by the Commissioner of Income Tax. The aforesaid contention of the Ld. A.R. has not been controverted by the Revenue. We find that the Agra Bench of the Tribunal in the case of Dr. Gyanendra Goel Foundation Vs. Commissioner of Income Tax (supra) after relying on the decision of Hon'ble Gujarat High Court in the case of Hiralal Bhagwati Vs. Commissioner of Income Tax (supra) in similar circumstance has held that when the Commissioner of Income Tax has granted registration u/s. 12AA after examining genuineness of activities of Trust, and the registration granted has not been revoked or cancelled then it is not proper for Commissioner of Income Tax to reject application of Trust for benefit of exemption u/s. 80G by holding that the activities of the Trust were not genuine.

7. Before us, the Revenue has not pointed out any contrary binding decision nor has placed any material on record to demonstrate that the aforesaid decision of Agra Bench of Tribunal has been set aside by the higher judicial forum. We are therefore, following the decision of Agra Bench of Tribunal and for similar reasons hold that in the present case the Commissioner of Income Tax was not justified in rejecting the application of assessee. We therefore set aside the order of LD. CIT and direct the granting of approval to assessee u/s. 80G of the Act. **Thus the grounds of the assessee are allowed.**

8. In the result, the appeal of the assessee is allowed.

Order pronounced on 15th day of January, 2019.

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

Sd/-
ANIL CHATURVEDI
ACCOUNTANT MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 15th January, 2019.

RK

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

1. The Appellant.
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, I.T.A.T., Raipur

//True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on	14.01.2019	Sr.PS/PS
2	Draft placed before author	15.01.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		