

आयकर अपीलीय अधिकरण,सुरत न्यायपीठ, सुरत
**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**
श्री सी.एम.गर्ग, न्यायिक सदस्य तथा श्री ओ.पी.मीना, लेखा सदस्य के समक्ष
**BEFORE SHRI C.M.GARG, JUDICIAL MEMBER
AND SHRI O.P.MEENA, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.3503/Ahd/2014/SRT
निर्धारण वर्ष/Assessment Year : 2014-15

Shree Tapeshwar Hanumanji Bajrang Charity Trust, At & Po. Kalay, Kanglav, Via Bhilad, Umbergaon, Gujarat State. [PAN: AAKTS 9068 E]	Vs.	Commissionert of Income-tax, Valsad.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से /Assessee by	Shri A. Gopalkrishnan, CA
राजस्व की ओर से /Revenue by	Shri Srinivas T. Bidari, CIT-DR

सुनवाई की तारीख/ Date of hearing:	13.07.2018
उद्घोषणा की तारीख/Pronouncement on	31.07.2018

आदेश /O R D E R

PER O. P. MEENA, ACCOUTANT MEMBER:

1. This appeal filed by the Assessee directed against the order of Learned Commissioner of Income Tax, [CIT], Valsad, dated 10.11.2014.

2. The assessee has taken following ground of appeal :

- “1. On appreciation of the facts and circumstances of the case, the order passed by the honorable Commissioner of Income Tax rejecting the application for issue of certificate U/s.80G of the Act is contrary to facts and law and prejudicial to the appellant.
2. On appreciation of the facts and circumstances of the case, the honorable Commissioner of Income Tax has erred in rejecting the application for issue of certificate U/s.80G to the appellant without granting sufficient opportunity for hearing and without issuing a speaking order. The trust had duly filed application for obtaining registration U/s.12A and therefore the action of the honorable Commissioner of Income

Tax in rejecting the application for issuance of certificate U/s.80G on this ground is not in accordance with the facts, prejudicial to the appellant and deserves to be deleted."

3. Both grounds of appeals are connected, hence, being consider together. Brief facts of the case are that the appellant Trust came into existence on 08.08.2011 with Reg.No. E-2584 named as Shree Tapeshwar Hanumanji Banjarang Charity Trust.

4. As per the Trust Deed the objects of the Trust are charitable in nature. The Trust was registered with the Assistant Charity Commissioner, vide registration no.E-2584 dated 08.08.2011. It has applied for registration u/s.12A(a) of the IT Act. The Commissioner of Income Tax, Valsad pointed out that as per provision of section 80G(5)(vi) of the Income Tax Act, 1961 read with Rule 11AA(2)(i) of Income Tax Rule 1962, for the approval of an institution or fund under section 80G, registration of the trust under section 12A of the I.T.Act is essential. The Id.CIT noticed from the records that the trust has not been able to obtain registration u/s.12A of the Income Tax Act. The trust has not fulfilled all the conditions laid down under section 80G(5) of the Income Tax Act and Rule 11AA(2)(i) of Income Tax Rule 1962. Therefore, the Id.CIT held that issue of certificate u/s.80G of the I.T.Act, 1961 is not possible, hence rejected.

5. Being aggrieved and dis-satisfied with the impugned order, the assessee has filed appeal before this Tribunal. The Id.Counsel for the

assessee took us through the paper book, page no's.18 to 19 wherein para 5 defines the Trust works, according to which the assessee Trust is to spread and promote religious scriptures reading, distribute consecrated food, running gymnasium, upliftment of economically poorer sections of the society, doing socio-cultural activities in society without any bar of any caste, filling devotions towards the country for human well being and contribute in imperative services like students education books, scholarships, foods and clothes etc,. according to which the aims of the Trust are as under :

- “i) To repair Shree Tapeshwar Hanumanji Bajrang temple.*
- ii) To appoint pujari for temple.*
- iii) To celebrate religious worship prayers enchanting devotional holy story of several kinds, during then to distribute consecrated food great consecrated food.*
- iv) To run gymnasium, religious reading room.*
- v) To colonize devotee sitting prayer hall along with necessary furniture.*
- vi) To arrange tours enmasse to visit other religious places to achieve divinity.*
- vii) To provide help in whole to economically poors of the society.*
- viii) To accept the donation and other things from the society as to maintain Trust.*
- ix) This Trust shall do all the truthful non violent works without partiality to any caste or religion.*
- x) Trust shall publish relating to local religious place.*
- xi) To create hall, garden for religious get-together along with youth development activity doing with socio-cultural activity.*

- xii) *To bring forth temple at such place from where, en masse shall gainfully achieve the desirement devotion towards the country.*
- xiii) *To do welfare works for the people.*
- xiv) *To provide aids to the disables.*
- xv) *To provide help monetary for free, scholarship, prize, food, cloths, educational tools, books to the student, pupil, who pursuit of learning at educational institution. The above mentioned intentions has been constituted without parity of casteism.”*

6. Therefore, it was contended that the assessee Trust is engaged in the imparting education to all religions, hence, it is solely exist for the purpose of education and human wellbeing, therefore, CIT, Valsad was not justified in not issuing certification u/ .80G of the Act.

7. Per Contra, the Id.Senior Departmental Representative (Sr.DR) relied on the orders of the CIT-II.

8. We have considered the facts and circumstances and perused the available material on record. It is seen that the main object of the Trust is to promote Education, to infuse inspiration, wishful though conception, piousness to religion into mass, to do welfare work in the society without any bar of any caste, community, colour or religion. We may also observe that the CIT, Valsad has denied the approval of Trust u/s.80G of the Act by observing that as per provision of section 80G(5)(vi) of the Income Tax Act, 1961 read with Rule 11AA(2)(i) of Income Tax Rule 1962, for the approval of an institution or fund under

section 80G, registration of the trust under section 12A of the I.T.Act is essential.

9. The Hon'ble Supreme Court in the case of M/s.Queen's Eduicational Society vs. CIT(supra) discussing therein various decision of Supreme court's as well as High Court's has held that the concern was charitable purposes as defined u/s.2(15) of the Act. Similarly, the decision in the case of Director of Income Tax (Exe) vs. I.D.R.B.T (supra) of Hon'ble Andhra Pradesh High Court observed as under :

“Charitable purpose, under Section 2(15) of the Act, is defined to include education. The order of the D.I.T.(E) records that the Society has been sponsoring diploma course in banking sections with the Osmania University and full-fledged post-graduate course-M.Tech. (Information Technology) with specialization in banking technology and information security with costs with the University of Hyderabad. Sponsoring educational courses would fall within the ambit of “education” as defined under Section 2(15) of the Act. Merely because education is provided at cost does not result in the Society ceasing to carry on its activities for a charitable purpose. There is no material on record, nor has any finding been recorded by the D.I.T(E) referring to particular instances, to hold that the respondent-assessee was carrying on its educational activities with a profit motive or on commercial lines. The Tribunal has rightly held that the reasons assigned by the D.I.T(A) in cancelling registration of the respondent-assessee, was vague and without reference to any particular instance.”

10. Therefore, in the circumstances, we are inclined to hold that when a Trust mainly engaged in spreading and promoting religious scriptures reading, distribute consecrated food, running gymnasium, upliftment of economically poorer sections of the society, doing socio-cultural activities in society without any bar of any caste, filling devotions towards the country for human well being and contribute in imperative services like students education books, scholarships, foods and clothes etc.,. then it cannot be said that the assessee Trust has

ceased to exist for the purpose of charitable and education as provided u/s.2(15) of the Act. Therefore, we are of the considered opinion that the assessee is entitled for approval u/s.80G of the Act. Accordingly, the order of the CIT, Valsad set-aside with the direction to pass appropriate order granting approval u/s.80G to the assessee Trust.

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

12. The order pronounced in the open Court on 31-07-2018.

Sd/-

(सी.एम.गर्ग /C.M. GARG)

न्यायिकसदस्यतथा/JUDICIAL MEMBER लेखासदस्यकेसमक्ष /ACCOUNTANT MEMBER

सुरत/ Surat, दिनांक Dated: 31st July, 2018

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

/ / TRUE COPY / /

Assistant Registrar, Surat