



IN THE INCOME TAX APPELLATE TRIBUNAL  
VARANASI CIRCUIT BENCH, VARANASI

BEFORE SHRI. A. D. JAIN, VICE PRESIDENT  
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER

ITA No.241/ALLD/2017  
Assessment Year: N.A.

Mannan Devi Samaj Sewa Sansthan Village & Post Sikta Tehsil Padrauna, Kushi Nagar	v.	CIT (Exemptions) Lucknow
TAN/PAN:AAMFM9284A		
(Appellant)		(Respondent)

Appellant by:	Shri Jagdish A.R.		
Respondent by:	Shri A. K. Tripathi, CIT (DR)		
Date of hearing:	08	05	2019
Date of pronouncement:	09	05	2019

**ORDER**

PER A. D. JAIN, V.P.:

This is assessee's appeal against the order of the Id. CIT (Exemptions), Lucknow, dated 19/9/2017, passed under section 80G(5)(vi) of the Income Tax Act, 1961, taking the following grounds of appeal:

1. BECAUSE ON FACTS OF THE CASE AND IN LAW, THE LD. CIT (EXEMPTIONS), LUCKNOW HAS ERRED IN REJECTING THE APPLICATION FOR GRANT OF APPROVAL UNDER SECTION 80G(5)(vi) OF THE INCOME TAX ACT, 1961 VIDE ORDER DATED 19.09.2017..
2. BECAUSE ON FACTS OF THE CASE AND IN LAW, THE LD. CIT (EXEMPTIONS) DID NOT APPRECIATE THAT THE APPELLANT-SOCIETY IS REGISTERED UNDER THE SOCIETIES REGISTRATION ACT, 1860, AND CARRYING OUT ITS ACTIVITIES AS PER

OBJECTIVES MENTIONED IN ITS MEMORANDUM OF THE SOCIETY.

3 BECAUSE ON FACTS OF THE CASE AND IN LAW, THE LD. CIT (EXEMPTIONS) DID NOT APPRECIATE THAT THE APPELLANT-SOCIETY IS REGISTERED UNDER SECTION 12A OF THE INCOME TAX ACT, 1961 BY THE COMMISSIONER OF INCOME TAX, GORAKHPUR W.E.F. 01.04.2006 VIDE REGISTRATION NO.1/43/2006-07 DATED 18.01.2007.

4. BECAUSE ON FACTS OF THE CASE AND IN LAW, THE LD. CIT (EXEMPTIONS) DID NOT APPRECIATE THAT THE RETURNS OF INCOME OF THE APPELLANT HAVE BEEN ACCEPTED AT NIL INCOME ALLOWING BENEFIT OF THE SECTION 11 OF THE INCOME TAX ACT, 1961.

5. BECAUSE ON FACTS OF THE CASE AND IN LAW, THE LD. CIT (EXEMPTIONS) HAS ERRED IN RECORDING HIS FINDINGS THAT NEITHER THE ACTIVITIES OF THE APPELLANT SOCIETY ARE GENUINE NOR ITS BUSINESS PRACTICES ARE INCIDENTAL TO THE ATTAINMENT OF ITS OBJECTS, TO DENY THE APPROVAL UNDER SECTION 80G (5)(vi) OF THE ACT.

6. BECAUSE THE LD. CIT (EXEMPTIONS) WAS WRONG IN NOT CONSIDERING THE FACTS INCLUDING GENUINENESS OF EXPENSES AS MENTIONED IN SUBMISSIONS DATED 13.09.2017 FURNISHED BY THE APPELLANT SOCIETY BEFORE HIM DURING THE COURSE OF HEARING OF THE CASE.

7. BECAUSE ON FACTS & CIRCUMSTANCES THE LD CIT (EXEMPTIONS), LUCKNOW HAS WRONGLY RECORDED THE FINDINGS THAT MAJOR PART OF FUNDS OF THE BUDGET HAVE BEEN DIVERTED TOWARDS PAYMENT OF SALARIES BECAUSE OF NON SUBSTANTIATING BY THE IDENTIFICATION OF THE RESPECTIVE INDIVIDUALS, AND THUS IT DOES NOT RULE OUT THE POSSIBILITY OF THE SAID SETUP BEING NECESSARY TO CHANNELIZE FUNDS FOR NON CHARITABLE PURPOSE.

8. BECAUSE THE LD. CIT (EXEMPTIONS) ACTED ARBITRARILY IN REJECTING THE APPLICATION FOR APPROVAL UNDER SECTION

80G OF THE APPELLANT SOCIETY FORMED FOR THE CHARITABLE PURPOSE WHICH CARRIES OUT ITS CHARITABLE ACTIVITIES GENUINELY AS PER THE BYE LAWS UNDER WHICH IT WAS FORMED.

9. BECAUSE ON FACTS AND IN THE CIRCUMSTANCES OF THE CASE, THE LD. CIT (EXEMPTIONS) HAS ERRED IN NOT PROVIDING THE SUFFICIENT & REASONABLE OPPORTUNITY OF BEING HEARD TO THE APPELLANT AND WHICH IS AGAINST THE PRINCIPLE OF NATURAL JUSTICE.

10. BECAUSE ON FACTS OF THE CASE AND IN LAW THE LD. CIT (EXEMPTIONS) HAS ERRED RECORDING THE FINDINGS THAT THE APPELLANT SOCIETY ENGAGED ITSELF IN BUSINESS ON COMMERCIAL LINES WITHOUT PROVIDING ANY ELEMENT OF CHARITY & INVOLVED IN ACTIVITIES WHICH APPARENTLY ARE FOR PROFIT MAKING AND NOT FOR CHARITABLE PURPOSES.

11. BECAUSE IN LAW AND ON FACTS OF THE CASE, THE ORDER DATED 19.09.2017 PASSED BY THE LD. CIT (EXEMPTIONS) REJECTING THE APPLICATION OF THE APPELLANT SOCIETY IS ARBITRARY, UNJUSTIFIED AND BAD IN LAW AND, THEREFORE DESERVE TO BE CANCELLED BY ALLOWING THE APPROVAL TO THE APPELLANT SOCIETY.

12. BECAUSE ON FACTS AND IN CIRCUMSTANCES OF THE CASE, THE APPELLANT RESERVES THE RIGHT TO AMEND, TO INTRODUCE OTHER GROUNDS OF APPEAL AND NEW FACTS WITH THE KIND PERMISSION OF YOUR HONOUR.

2. The assessee is a Society registered with the Registrar of Firms, Societies & Chits under the Societies Registration Act, 1860. The assessee is also registered under section 12A (a) of the Income Tax Act, 1961 w.e.f. 01.04.2006, vide order dated 18.01.2007 of the Commissioner of Income Tax, Gorakhpur. The assessee society was created for the charitable purposes, including the advancement of any other object of general public utility. There are various objectives as

mentioned in the Memorandum of Society of the assessee society and all are covered under the definition of the 'charitable purpose' as enumerated in the provisions of section 2(15) of the Income Tax Act, 1961. The assessee filed an application before the Ld. Commissioner of Income Tax (Exemptions), Lucknow, on 24.03.2017 for grant of approval under section 80G(5)(vi) of the Act, in the prescribed Form No. 10G, along with all the requisite documents. However, the CIT (Exemptions), Lucknow rejected the application, vide his order dated 19.09.2017, observing that the assessee is not engaged in any charitable activities, which is the prerequisite for approval under section 80G of the Act.

3. Aggrieved with the order of the Id. CIT (Exemptions), Lucknow, the assessee is in appeal before us.

4. Having given a thoughtful consideration to the rival submissions and from a careful perusal of record, we find that the Id. Commissioner of Income-tax had denied approval under section 80G(5)(vi) of the Act to the assessee society only for the reason that neither the activities of the assessee society are genuine nor its business practices are incidental to the attainment of its objects. But he has not brought out anything on record to establish that the assessee society was ever engaged in any activity other than charitable. It is also on record that registration under section 12A of the Act has been granted to the assessee society and the return of income of the assessee has been accepted at Nil income, allowing benefit of section 11 of the Act. Since the Id. Commissioner of Income-tax has not brought out anything on record to demonstrate that the assessee society was engaged in non-charitable activity, denial of recognition under section 80G(5)(vi) of the Act is not proper. We accordingly set aside the order of the Id.

Commissioner of Income-tax and direct him to grant recognition under section 80G(5)(vi) of the Act to the assessee-society.

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

Order pronounced in the open Court on 09/05/2019.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:09/05/2019

JJ:0805

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar