

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI, SANJAY GARG, JM

आयकर अपील सं./ ITA NO. 1/Chd/2019

निर्धारण वर्ष / Assessment Year :

Under Section 250(6)

Rajiv Gandhi National University of Law Sidhuwal Bhadson Road Patiala, Punjab	बनाम	The CIT(E) Exemption Chandigarh
स्थायी लेखा सं./PAN NO: AAAJR0714Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Gurjeet Singh, CA
राजस्व की ओर से/ Revenue by : Shri G.S. Phani Kishore, CIT DR
सुनवाई की तारीख/Date of Hearing : 08/07/2019
उद्घोषणा की तारीख/Date of Pronouncement : 09/07/2019

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the Assessee against the order dt. 29/11/2018 of the Ld. CIT(E), Chandigarh.

2. The only grievance of the Assessee in this appeal relates to the refusal for approval under section 80G of the Income Tax Act, 1961 (hereinafter referred to as 'Act'), even when the assessee was registered under section 12AA of the Act.

3. Facts of the case in brief are that the assessee filed an application on 28/05/2018 for approval under section 80G of the Act, the assessee also furnished copy of the order dt. 30/11/2017 under section 12AA of the Act, passed by the CIT(E) Chandigarh. The Ld. CIT(A) asked the assessee to produce the following details / clarifications :

i. A certified legible copy of Bye-laws/Memorandum of Association of Society/Trust/Company along with Supplementary/Amended deed (If any), in English, may be furnished.

ii. Details of Names and addresses of the Settler, Trustees, Members of the Trust/Society/Company with their PANs & Email address, relationship amongst them and their profession, be furnished.

iii. An affidavit giving clear undertaking that no fees charges etc will be collected for any services referred from the beneficiaries in violation of provisions of Section 2(15) of the Income Tax Act.

iv. Copies of the Audited Balance sheet, Income & Expenditure Account along with complete annexure for the last 3 years or since the beginning of the trust alongwith the Receipts and payment accounts for the relevant years. Please

note that the financial statements related to individual institute(s) and also, the consolidated in respect of society/trust may be submitted.

v. A comprehensive note on activities specifying the section 2(15) of I.T. Act under which the objects of the trust get covered and qualify for being considered charitable may be furnished alongwith details how the activities projected are charitable in nature specifying the specific limb u/s 2(15) of the Act.

vi. Justification about the claim of exemptions u/s 11/12 of I.T. Act alongwith a detailed note in the matter.

vii. Details of property vested in the society, as envisaged u/s 11 of the I.T. Act, income from which sought to be exempted.

viii. Details of voluntary contributions received by the society, as envisaged u/s 12 of the I.T. Act and whether any specific directions have been received by the persons making voluntary contributions.

ix. Details of land and building purchased during last three year along with the copies of registration of the same in the name of the society.

x. Proof of ownership of land and building/fixed assets owned by the trust/society may be furnished.

xi. Details of donations received along with documentary evidence.

xii. The copies of the I.T Returns alongwith computation of income (if any), may be filed for the last 03 years.

xiii. Details of corpus fund and whether the same are with any specific written directions.

xiv. Copy of Receipts and payment accounts of the entity for the last three years corroborating the same through bank entries.

xv. In case the trust/society is running an educational institute, copy of affiliation letter duly certified by the member/trustee of the society/trust be furnished. The complete name and address (es) of the institute may also be provided.

xvi. The copies of the statements of all bank accounts maintained by the trust/society or by the trustees for last 3 years or since the beginning of the trust.

xvii. Copy of registration granted under Foreign Contribution Regulation Act (FCRA).

xviii. Whether the application for registration has been filed for the first time? If no the outcome of earlier application with copy of the order may be intimated.

xix. Details of any search & seizure or survey u/s 133-A of the Income Tax Act, 1961 carried out in the case of the society.

xx. Copies of all the bank statement from 08.11.2016 to 31.12.2016 highlighting the cash deposits alongwith the source, with documentary evidence, as a separate annexure.

xxi. An affidavit giving the details of all the bank accounts maintained by the society/ trust deposed in it that no other bank account is maintained except those disclosed before the department.

xxii. Status of exemption claimed in the earlier years alongwith the evidence.

xxiii. The details of the trustees/members being trustee/member/director in different society/trust/company.

xxiv. The desired e-mail for online communication in respect of the present matter.

3.1 In response the Assessee submitted that it is an educational institution substantially funded by the Punjab Government and the major source of income was either interest income, receipts from student, collection of rent etc

from staff or others utilizing assets of University, receipts from the Punjab Government and University Grant Commission(UGC). The assessee has also furnished its financial statements for the last three assessment years as under:

F.Y.	Total receipts	Surplus	Fixed Assets	Investments from Endowment/earmarked Funds	Investment others
2015-16	Rs. 15,31,08,402/-	Rs. 12,68,15,741/-	Rs. 21,39,10,331/-	-----	Rs. 26,95,72,379/-
2016-17	Rs. 25,41,82,441/-	Rs. (-) 3,03,14,765/-	Rs. 1,51,39,29,692/-	Rs. 32,83,86,776/-	Rs. 4,69,18,103/-
2017-18	Rs. 24,93,38,484/-	Rs. 5,53,02,239/-	Rs. 1,51,10,51,614/-	Rs. 39,90,22,849/-	Rs. 7,91,65,278/-

4. The Ld. CIT(E) asked the assessee to furnish following additional informations:-

- (i) *Rationale for seeking approval u/s 80G being an educational body and having huge fixed assets, Investments & current assets.*
- (ii) *Copy of Bank statement for the last three years.*
- (iii) *ITR Computation for A.Y. 2018-19.*
- (iv) *Rationale for seeking approval u/s 80G, when you are getting grant from UGC and you have sufficient designated/earmarked fund in your balance sheet.*

4.1. The Ld. CIT(E) observed that the finances of the assessee reflected no palpable financial stress since it was in receipt of excess of Rs. 15/- crores and the main focus of the assessee was on maintaining the investments. The Ld. CIT(E) concluded that the assessee had at its disposal huge investment and the rationale for seeking donations was not brought out in this case. He therefore, rejected the application moved by the assessee for approval under section 80G(5)(vi) of the Act.

5. Now the assessee is in appeal.

6. Ld. Counsel for the Assessee submitted that the assessee was granted Registration under section 12AA of the Act, and its objects are charitable in nature therefore merely on this basis that there was surplus with the assessee, the Registration under section 80G could not have been denied. The reliance was placed on the following case laws:

- CIT Vs. Rajmala Educational Society (2012) 65 DTR 0307 (P&H)
- CIT Vs. Vinod Kumar Somani Charitable Trust (2018) 102 CCH 0123 PHHC (P&H)
- S.J.A Alumni Association Vs. CIT (2016) 47 ITR(Trib) 0274 (Delhi)

7. In his rival submissions the Ld. CIT DR strongly supported the impugned orders of the Ld. CIT(E) and further submitted that the Ld. CIT(E) specifically asked the assessee to furnish the rationale for seeking approval when it was

getting grant from UGC and was having sufficient designated / earmarked funds in its balance sheet. He also asked the assessee to furnish bank statement for the last three years and ITR's, computation for the A.Y. 2018-19 but no such information was provided by the assessee. Therefore the application moved for approval under section 80G(5)(vi) of the Act was rightly rejected by the Ld. CIT(E).

8. We have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case it is an admitted fact that the assessee is having Registration under section 12AA of the Act but it did not provide the requisite information asked by the Ld. CIT(E). It is also noticed that sufficient time was not granted by the Ld. CIT(E) to the assessee to provide such information which is evident from para 4 of the impugned order wherein the Ld. CIT(E) himself stated that queries were raised on 24/11/2018 and the assessee was asked to file reply on 27/11/2018. We therefore considering the totality of the facts deem it appropriate to remand this case back to the file of the Ld. CIT(E) to be decided afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

9. In the result, appeal of the Assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 09/07/2019)

Sd/-

संजय गर्ग
(SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

AG

Date: 09/07/2019

Sd/-

एन.के.सैनी,
(N.K. SAINI)

उपाध्यक्ष / VICE PRESIDENT

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File