

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 922/Bang/2019
Assessment Year : 2019-20

M/s. HTR Trust, No. 15, “VINI”, 2 nd Cross Road, RMS Layout, Sanjay Nagar, RMV Extension, Bangalore – 560 094 PAN: AABTH7884A	Vs.	The Commissioner of Income Tax (Exemptions), Bangalore.
APPELLANT		RESPONDENT
Assessee by	:	Shri Raghavendra R. Chakravarthy, CA
Revenue by	:	Shri Pradeep Kumar, CIT (DR)
Date of hearing	:	22.07.2019
Date of Pronouncement	:	31.07.2019

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee and the same is directed against the order of Id. CIT(E), Bangalore dated 07.03.2019 passed by him u/s. 80G(5)(vi) of IT Act.

2. The grounds raised by the assessee are as under.

“1. The order of Commissioner of Income Tax (Exemptions), Bangalore (CIT) dt. 07.03.2019, in so far it is against the appellant is opposed to law, weight of evidence, facts and circumstances of the Appellant's case.

2. The CIT has grossly erred in rejecting the application made by the appellant for registration u/s 80G (5) of the Act without providing sufficient opportunity under the facts and circumstances of the case.

3. The CIT has grossly erred in not providing proper justification for rejecting the application made by the appellant for registration u/s 80G(5)(vi) of the Act and therefore the Order is bad and liable to be quashed under the facts and circumstances of the case.

4. The CIT has grossly erred in not appreciating the fact that the appellant had actually carried out charitable activities and therefore the order of the CIT is liable to be quashed and registration u/s 80G(5)(vi) of the Act is eligible to be extended to the appellant under the facts and circumstances of the case.

5. The CIT has failed to look into the facts and evidences produced by the appellant during the course of application proceedings u/s 80G of

the Act and therefore the Order of the CIT is liable to be quashed under the facts and circumstances of the case.

6. For the above and other grounds to be urged during the hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice.”

3. It is submitted by Id. AR of assessee that as per the impugned order of Id. CIT(E), it is stated by Id. CIT(E) that in the absence of sufficient activities, it is not possible to verify the genuineness of the objects and the activities of the trust and based on this logic, he decided the issue against the assessee and in the process, he has followed one judgment of Hon'ble Karnataka High Court rendered in the case of Ganjam Nagappa and Son Trust Vs. DIT (E) as reported in 269 ITR 59 and also followed a judgement of Hon'ble Kerala High Court rendered in the case of Self Employers Institution Vs. CIT as reported in 247 ITR 18. He submitted that on page no. 20 of the paper book is the provisional balance sheet of the assessee trust as on 31.03.2019 and on page no. 21 of the paper book is the provisional Income & Expenditure Account of the assessee trust for the period ending on 31.03.2019 and pointed out that as per the said provisional Income & Expenditure account, the assessee trust has received donation of Rs. 7,60,252/- and has incurred expenses of Rs. 2,55,736/- towards Healthcare Expenditure, Rs. 1,06,200/- towards Audit Fees, Rs. 17,400/- towards Scholarship Expenses and has paid donation of Rs. 60,000/- in addition to other routine administrative expenses. He submitted that it appeared that these expenses incurred by the assessee trust were not considered by CIT(E) while passing the impugned order and therefore, in the facts of present case, the matter should be restored back to the file of CIT(E) for a fresh decision. The Id. DR of revenue supported the impugned order passed by CIT(E).
4. We have considered the rival submissions. We find that a very cryptic order has been passed by CIT(E) in which it is stated by him that the trust was established on 22.09.2017 and it has not carried out noticeable activities to grant exemption u/s. 80(G) of the IT Act. There is no mention about the expenses already incurred by assessee up to 31.01.2019. As per pages 1 and 2 of the paper book, written submission was submitted by the assessee before CIT(E) on 04.03.2019 and the impugned order has been passed by CIT(E) on 07.03.2019. As per the said written submissions filed before CIT(E) on 04.03.2019, it is seen that the assessee has enclosed photo proof for conducting charitable activities, list of donors & sample copies of receipts,

provisional statement of accounts drawn up to 31.01.2019, bank statements and proof of ownership of the premises. There is no comment of CIT(E) regarding these evidences submitted by assessee before him on 04.03.2019. In the Provisional Income & Expenditure Account for the period ending as on 31.01.2019 which is unaudited, the assessee has debited an amount of Rs. 106,200/- towards Audit Fees. This is very surprising. The same along with other expenses claimed as well as various investments shown in the Provisional Balance Sheet should be established by the assessee before Learned CIT (E) by bringing evidence on record failing which, there may be doubts over the entire Provisional Income & Expenditure Account & Provisional Balance Sheet. Under these facts, we feel it proper to restore back the matter to the file of CIT(E) for fresh decision after considering these evidences which are already brought on record by the assessee before him in the first round and required evidences to be brought on record as per above discussion. The assessee can bring on record more evidences for the activities of the assessee trust till now and thereafter, CIT(E) shall pass necessary order as per law after providing adequate opportunity of being heard to assessee. We want to further observe that CIT(E) should pass a speaking and reasoned order.

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

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 31st July, 2019.
/MS/

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| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.