

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI JASON P. BOAZ, ACCOUNTANT MEMBER**

ITA No.2572/Bang/2018
Assessment year : 2018-19

M/s. Heritage Parampara, No.1, Chinmaya Apartment, Puttanna Road, Basavanagudi, Bengaluru – 560 004. <b>PAN : AABTH 8132 M</b>	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. H. V. Gowthama, CA
Revenue by	:	Shri. Vikas Suryavamshi, Addl. CIT

Date of hearing	:	10.07.2019
Date of Pronouncement	:	04.09.2019

**ORDER**

***Per Jason P. Boaz, Accountant Member:***

This appeal by the assessee is directed against the order of the CIT(Exemptions), Bengaluru, dated 25.07.2018 rejecting the assessee's application for grant of recognition under section 80G of the Income Tax Act, 1961 (in short 'the Act').

2. Briefly stated, the facts of the case are as under:-

2.1 The assessee is a charitable trust constituted vide trust deed dated 06.12.2017. The assessee filed applications in Form No.10A seeking

registration under section 12AA of the Act and for recognition under section 80G of the Act on 04.01.2018. After examination of the assessee's application for registration, the CIT(Exemptions) granted the assessee registration under section 12AA of the Act vide order No.ITBA/EXM/S/12AA/2018-19/1010655508(1) dated 25.07.2018. However, the CIT(E), rejected the assessee's application for recognition under section 80G of the Act vide the impugned order under section 80G(5)(vi) of the Act also dated 25.07.2018; (i.e., the very same date on which registration under section 12AA of the Act was granted to the assessee). The reasons given by the CIT(E) for rejection of the assessee's application for registration under section 80G of the Act are that "the activities are not charitable in nature" and that "the applicant trust has not carried out any noticeable charitable activities".

3.1 Aggrieved by the order of the CIT(Exemptions), Bengaluru, dated 25.07.2018 rejecting the assessee's application for recognition under section 80G of the Act, the assessee has preferred this appeal before the Tribunal, wherein it has raised the following grounds:-

1. *The learned Commissioner of Income tax(E) erred in rejecting the application made by the Appellant Trust for granting exemption u/s.80G(5)(vi) of Income Tax, 1961.*
2. *The learned Commissioner of Income tax (E) erred in stating that " the Appellant Trust has not carried on any noticeable Charitable activities. In absence of Charitable activities, it will be difficult to ascertain the intent, nature and genuineness of the Trust*
3. *The Appellant submits that the Trust is engaged in activities of conducting Bharat Natyam Festival free of cost in various old Temples depicting the Culture and Heritage of India.*
4. *The Appellant further submits that Culture, Dance, etc., do come under the Charitable activities to be carried on by the Trusts and therefore is eligible for exemption u/ s.80G(5)(vi) of Income Tax Act.*
5. *The Appellant further submits that the charitable activity would also extend to bringing out Artistic taste of the Country by public*

*performances like Drama, Dance, music, etc., which could be considered as part charitable activity.*

6. *The Appellant place reliance on judgment of Hon'ble High Court of Madras in the case of Commissioner of Income Tax Vs Sri Thyaga Brahma Gana Sabha as reported in 188 ITR 160.*
7. *For the above and any other grounds that may be advanced at the time of hearing, the Appellant prays that, Appeal be allowed directing the learned Commissioner of Income Tax to grant Registration u/s. 80G(5)(vi) of Income Tax Act, 1961.*

In support of the grounds raised (supra), the assessee has filed various details at pages 4 to 77 of the appeal Memo accompanying the appeal.

3.2.1 The learned AR for the assessee was head in support of the grounds raised (supra). According to the learned AR, the CIT(E) in the impugned order has not spelt out the conditions mentioned in section 80G(5) of the Act which has not been fulfilled by the assessee. The learned AR drew our attention to the fact that the CIT(E) himself had granted the assessee registration under section 12AA of the Act vide order dated 25.07.2018 and therefore it is evident the CIT(A) was satisfied that the objects of the assessee trust were charitable and its activities were genuine. In these circumstances, the CIT(E) ought to have granted the assessee recognition under section 80G of the Act. The learned AR submitted that in similar circumstances, as in the case on hand, a Co-ordinate Bench of this Tribunal in the case of OLA Foundation Economic Laws Practice Vs. CIT(E), Bengaluru, in ITA No.215/Bang/2018 dated 27.10.2018; wherein following the decision of the ITAT Jaipur Bench in the case of Anand Incubation Centre Vs. CIT(E), Jaipur in 86 taxmann.com 250 (Jaipur – Trib.); directed grant of approval under section 80G of the Act. The learned AR also drew the attention of the Bench to the decision of the Co-ordinate Bench of this Tribunal in the case of All People Charitable Trust

Vs. CIT(E) in ITA Nos.1216 and 1217/Bang/2015 dated 30.12.2015 which followed the principles laid down by the Hon'ble Karnataka High Court in the case of DIT(E) Vs. Meenakshi Amma Endowment Trust in 354 ITR 219 (Kar), in the context of grant of recognition under section 80G of the Act.

3.2.2 The learned AR submitted that the assessee trust was constituted vide trust deed dated 06.12.2017 and application for grant of registration under section 12AA of the Act and recognition under section 80G of the Act were both filed on 04.01.2018. It is submitted that the CIT(E), obviously being satisfied with charitable nature of its objects and genuineness of activities thereof had granted the assessee registration under section 12AA of the Act on 25.07.2018. However, strangely, on the very same date vide order dated 25.07.2018, the same CIT(E) rejects the assessee's application for recognition under section 80G of the Act on the grounds that the assessee's objects are not charitable in nature and since it has not carried out sufficient / noticeable activities, it is not possible to verify the genuineness of the objects and activities of the assessee trust. It is contended that in view of the above factual situation in the case on hand and the judicial pronouncements cited, the action of the CIT(E) in not granting recognition under section 80G of the Act is not justified and therefore prayed that the order of the CIT(E) be set aside.

3.3 Per contra, the learned CIT-DR vehemently supported the impugned order of CIT(E) in rejecting the assessee's application for grant of recognition under section 80G of the Act.

3.4.1 We have considered the rival contentions / submissions and carefully perused the material on record. It is not in dispute that the CIT(E) himself granted the assessee registration under section 12AA of the Act vide order dated 25.07.2018 and therefore it is obvious that the CIT(E) was satisfied

that the objects of the assessee trust were charitable and that its activities were genuine as this is *sine qua non* for grant of registration under section 12AA of the Act. Rule 11AA(5) of the Income Tax Rules, 1962 makes it incumbent on the part of the CIT(E) to spell out the conditions in section 80G(5) of the Act that have not been fulfilled by the assessee. On a perusal of the impugned order, we find that the reasons assigned by the CIT(E) for rejection of assessee's application for grant of recognition under section 80G of the Act vide order dated 25.07.2018, on the very same day, is that the activities of the assessee are not charitable and the absence of noticeable activities of the Trust. We find that in similar factual circumstances, a Co-ordinate Bench of this Tribunal in the case of OLA Foundation Economic Laws Practice Vs. CIT(E) in its order in ITA No.215/Bang/2018 dated 27.10.2018 considered the same issue and directed the grant of recognition under section 80G of the Act holding as under at para 10 thereof:-

*“10. We have carefully considered the rival submissions. It is not in dispute that the CIT(E) himself has granted registration to the assessee u/s 12A of the Act and therefore, the CIT(E) was satisfied that the objects of the trust were charitable and that its activities were genuine as this is a condition for grant of registration u/s.12A of the Act. As per the requirements of Rule 11AA(5) of the Rules, it is incumbent on the part of the CIT(E) to spell out the conditions mentioned in sec. 80G(5) which has not been fulfilled by the assessee. Therefore it can be safely concluded that the only reason assigned by the CIT(E) for not granting approval u/s.80G of the Act is the absence of activities of the trust from the date of coming into existence of the Trust. The Hon'ble Karnataka High Court in the case of DIT(E) Vs. Meenakshi Amma Endowment Trust, 354 ITR 219 (Kar), wherein the Hon'ble Karnataka High Court in the context of grant of approval 12A of the Act made an observation that where trust has approached the authority for registration u/s 12A within span of 8 month after its formation, objects of the trust have to be examined and the authorities cannot insist on proof of activities of the trust as trust was yet to commence its activities. ITAT, Bangalore Bench in the case of All*

*People Charitable Trust Vs. CIT(E) in ITA Nos. 1216 and 1217/Bang/2015 order dated 30/12/2015 has applied the principles laid down in the case of Meenakshi Amma Endowment Trust (Supra) in the context of grant of registration u/s 80G of the Act. In the present case the trust was formed on 14/12/2016 and application for grant of registration and approval u/s 12A and 80G respectively was made on 16/5/2017. Therefore the CIT(E) was not justified in basing his conclusion for rejecting approval u/s.80G of the Act on the ground of absence of activities of the trust. ITAT, Jaipur in the case of Anand Incubation Centre Vs. CIT(E), Jaipur 86 taxmann.com 250 (Jaipur — Trib), on identical facts as the case of the assessee, the Tribunal held that rejection of grant of approval u/s 80G was not justified. Keeping in mind the aforesaid decisions and the facts of the present case, we are of the view that the CIT(E) ought to have granted the approval u/s.80G(5) of the Act. We accordingly direct that the approval u/s.80G of the Act be granted to the Assessee.”*

3.4.2 Respectfully following the above decision of the Co-ordinate Bench of this Tribunal in the case of OLA Foundation Economic Law Practice (supra), we direct that recognition under section 80G of the Act be granted to the assessee.

4. In the result, the assessee’s appeal is allowed.

*Order pronounced in the open court on this 4<sup>th</sup> day of September, 2019.*

Sd/-  
**(N. V. VASUDEVAN)**  
**Vice President**

Sd/-  
**(JASON P BOAZ)**  
**Accountant Member**

Bangalore.

Dated: 4<sup>th</sup> September, 2019.

/NS/\*

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|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT        | 4. CIT(A)     |
| 5. DR         | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.