

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER
AND HON'BLE MANISH BORAD, ACCOUNTANT MEMBER

ITA No.887/Ind/2018

Shree Jeenshashan Sewa Shiksha Sanskar Sankul Trust, 01 Abhyudpuram, Badnagar Road, Ujjain (Appellant)	Vs.	CIT(Exemption), Bhopal (Respondent)
PAN No.AAMTS1801R		

Revenue by	Smt. Ashima Gupta, CIT
Assessee by	Shri Venus Rawka, CA
Date of Hearing	19.11.2019
Date of Pronouncement	21.11.2019

ORDER

PER MANISH BORAD, AM

The above captioned appeal filed at the instance of the assessee is directed against the orders of Ld. Commissioner of Income Tax (Exemption) (in short 'Ld.CIT(A)'], Bhopal dated 28.9.2018.

2. Assessee has raised following grounds of appeals;

“The learned CIT (E) erred in refusing grant of exemption under section 80G (5)(vi) to the applicant since:-

*(1)Reasonable opportunity has not been provided by Ld. CIT being heard:-
The applicant has not been provided any opportunity by the C.LT.
Exemption to make him available the additional information required by
him for consideration of application.*

In response to CIT (E) notice dated 7.8.2018 thereby directing the applicant to give information/details. In response, the applicant filed details written submission on 27.08.2018 thereby providing all the details as directed by the CIT(E) vide their letter dated 7.8.2018. Thereafter, the applicant did not received any letter from department, either seeking any further information / clarification in the matter or giving any personal hearing in the matter. The learned C.LT.(E) passed arbitrarily the impugned order with incomplete details without providing any opportunity for personal hearing or without asking to submit any supplementary information required in this respect.

(2) The Order passed is bad in law as not in accordance with the provisions of law :-The argument of C.LT.(E) is that the huge surplus is generated by the society every year and fee is charged from student for education services therefore there is no justification or genuineness seen to seek exemption u/s 80G. This argument is not good and not in conformity to the provisions of Income Tax Act, 1961.

(3) That the appellant carve leave for any addition/ .deletion/ Alteration /modification/amendment in all or any of the above Grounds of appeal at any time before the completion of hearing”.

3. Brief facts of the case as culled out from the records are that the assessee is a Trust incorporated on 03.10.2010 and registered

u/s 12AA of the I.T. Act vide order dated 01.06.2016 engaged in social, education and religious activities at Ujjain. The assessee Trust applied for registration u/s 80G of the I.T. Act vide application in Form 10G on 26.03.2018. Ld. CIT (Exemption), Bhopal rejected the application u/s 80G of the Act on 28.09.2018.

4. Aggrieved assessee is now in appeal before the Tribunal against the order of CIT (Exemption).

5. At the outset Ld. Counsel for the assessee requested for setting aside the issues to the file of Ld. CIT(Exemption) for afresh adjudication on the ground that no reasonable opportunity of being heard was provided by Ld. CIT (Exemption) for furnishing various details including the evidence regarding the beneficiaries, details of fees structure, cost etc and this occurred since Ld. CIT (Exemption) had to pass the order before the statutory due date of disposing of the assessee's application u/s 80G(5)(vi) of the Act.

6. Per contra Ld. Departmental Representative vehemently argued supporting the order of Ld. CIT(Exemption).

7. We have heard rival contentions and perused the records placed before us. Assessee is aggrieved with the finding of CIT (Exemption), Bhopal rejecting the assessee's application u/s 80G(5)(vi) of the Act. We observe that the assessee trust enjoys the registration u/s 12AA of the Act vide order dated 1.6.2016. Running of the trust for attaining the objects of providing of social, education and religious activities is not disputed since registration u/s 12AA of the Act is in force. The application Form 10G for approval u/s 80G(5)(vi) of the Act made by the assessee on 26.3.2018 was rejected vide order dated 28.09.2018. Through Office of Ld. CIT (Exemption) questionnaire dated 7.8.2018 was issued seeking information and other related documents to be furnished by 21.8.2018. The compliance was made by the assessee submitting the reply on 21.8.2018. Post submission of the documents and before rejecting the application vide order dated 28.9.2018 no clarification or explanation was sought from the assessee trust. Though Ld. CIT (Exemption) discussed about the fees structure, cost incurred and beneficiaries of trust being not produced the fact remains that no such opportunity was provided to the assessee trust to make necessary compliance. The

observation of the CIT (Exemption) that the *“Trust is having substantial receipts as reflected in the accounts and also generating huge surplus every year and the Trust has also made substantial amount on bank deposits in Banks”* cannot be one of the basis to reject the application u/s 80G of the Act.

8. In these given facts and circumstances of the case and in view of our discussion above and in the interest of justice we are of the considered view that as the Ld. CIT(Exemption) failed to provide reasonable opportunity of being heard to the assessee trust in order to furnish various details called for, all the issues raised in this appeal relating to approval of application u/s 80G(5)(vi) of the Act needs to be set aside to the file of CIT(Exemption) for afresh adjudication. Needless to mention that proper opportunity of being heard should be provided to the assessee this time and assessee trust is also directed to make necessary compliance as and when called by Ld. CIT(Exemption).

8. In the result appeal of the assessee is allowed for statistical purpose.

The order pronounced in the open Court on 21.11.2019.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 21 November, 2019

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Copy to: The Appellant/Respondent/CIT concerned/CIT(A)
concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore