

IN THE INCOME TAX APPELLATE TRIBUNAL

“B” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No. 1619/Bang/2019
Assessment Year : 2018-19

M/s. Vidyashilp Community Trust, 6437, Jakkur, Bangalore – 560 064. PAN: AACTV5361R	Vs.	The Commissioner of Income Tax (Exemptions), Bangalore.
APPELLANT		RESPONDENT
Assessee by	:	Smt. Sheetal Borkar, Advocate
Revenue by	:	Shri Muzaffar Hussain, CIT (DR)
Date of hearing	:	10.10.2019
Date of Pronouncement	:	15.11.2019

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 27.05.2019 passed by him u/s. 80G(5)(vi) of the IT Act, 1961.

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

- “1. The learned C.I.T. (E) has erred in passing the order in the manner which he did.*
- 2. The learned C.I.T. (E) failed to appreciate the fact that the appellant institution is involved in educational activities that are charitable in nature.*
- 3. On the facts and circumstances of the case and in law, the learned C.I.T. (E) erred in not appreciating that exemption u/s. 80G(5)(vi) of the Act cannot be denied simply based on the absence of sufficient activities.*
- 4. The learned C.I.T. (E) further erred in overlooking that the exemption u/s 80G(5)(vi) of the Act cannot be denied to an institution for not having substantial activity at its initial stages.*
- 5. The learned C.I.T. (E) has failed to appreciate that the appellant institution has prior approval u/s 12A of the Act.*
- 6. The learned C.I.T. (E) has erred in law by not granting the appellant institution exemption u/s 80G(5)(vi) of the Act, despite the appellant institution having prior approval u/s 12A of the Act.*
- 7. The learned C.I.T. (E) has erred in law by not taking into consideration that the institution is newly formed, on 31.08.2017 and therefore is eligible for exemption u/s 80G(5)(vi) of the Act.*
- 8. The learned C.I.T. (E) has erred in law by disallowing the assessee*

exemption u/s 80G(5)(vi) of the Act.

9. The learned C.I.T. (E) failed to appreciate the fact that the institution is newly established.

10. The order of assessment as passed by the C.I.T. (E) is not sustainable in the eye of law as the institution is newly formed and is therefore not subject to rejection of grant of exemption u/s 80G(5)(vi) of the Act based on the absence of substantial activities.

11. Without prejudice, the disallowance is excessive, arbitrary, unreasonable and ought to be deleted in toto.

12. The learned C.I.T. (E) has erred in passing an order without giving the Appellant sufficient opportunity to be heard.

13. For these and other grounds that may be urged at the time of hearing of the appeal, the Appellant prays that the appeal may be allowed.”

3. It was submitted by Id. AR of assessee that as per the impugned order, it is held by Id. CIT(E) that although the trust was established on 31.08.2017, the assessee has not carried out noticeable activities to grant exemption u/s. 80(G) of the IT Act. It was submitted by Id. AR of assessee that on page no. 4 of the paper book is the income and expenditure account for the year ended on 31.03.2018 and as per the same, the assessee has received an amount of Rs. 6,62,292/- as donation and there were expenses of Rs. 189/- on account of Bank Charges, Rs. 3,050/- on account of Office Expenses, Rs. 47/- on account of Postage and Courier, Rs. 5,100/- on account of Printing and Stationery and Rs. 1,115/- on account of Rates & Taxes. There were Excess of Income Over Expenditure of Rs. 6,52,791/- in that year. The bench wanted to see the current position of the activities of the assessee. In reply, it was submitted by Id. AR of assessee that if the matter is restored back to the file of Id. CIT(E), the assessee will furnish the balance as on 31.03.2019 and the provisional balance sheet up to date and thereafter Id. CIT(E) may decide the issue as per law afresh. The Id. DR of revenue supported the order of Id. CIT(E).
4. We have considered the rival submissions. We find that as per the impugned order, this is the finding of Id. CIT(E) that the assessee has not carried out noticeable activities u/s. 80G of the IT Act in the order of Id. CIT(E) dated 27.05.2019. In the paper book filed before us, the assessee has furnished copy of income and expenditure account for the year ended 31.03.2018 but the subsequent income and expenditure account for the year ended 31.03.2019 is not available in the paper book. As per this income and expenditure account up to 31.03.2018, it appears that no activity was carried out except incurring

some administrative expenses. But still we feel that in the interest of justice, the matter shall go back to the file of Id. CIT(E) for fresh decision and hence, we set aside the order of Id. CIT(E) and restore the matter back to the file of Id. CIT(E) for fresh decision with the direction that the assessee should furnish the income and expenditure account and balance sheet for the year ended 31.03.2019 and for the current year up to 31.10.2019 or a date closure to the date when it is submitted before CIT € and bring other evidence on record in support of assessee's claim that charitable activities are carried out by the assessee and after considering the same, Id. CIT(E) should pass necessary order as per law after providing reasonable opportunity of being heard to the assessee. We make no comment on the merit of the case.

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/-
(BEENA PILLAI)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 15th November, 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.