

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : E : NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1841 & 1842/Del/2018

Assessment Year: --

Maheshwari Mandir Trust,
C/o KC Singhal, Advocate,
A-2/8, Sector-11,
Faridabad.

Vs CIT(E),
Chandigarh.

PAN: AAFTM0463L

(Appellant)

(Respondent)

Assessee by	:	Shri Amit Gupta, Advocate
Revenue by	:	Ms Pramita M. Biswas, CIT, DR
Date of Hearing	:	28.11.2019
Date of Pronouncement	:	29.11.2019

ORDER

PER R.K. PANDA, AM:

The above two appeals filed by the assessee are directed against the separate orders dated 23rd February, 2018 of the CIT(E), denying approval u/s 80G and registration u/s 12AA of the IT Act, 1961.

2. For the sake of convenience, these were heard together and are being disposed of by this common order.

3. Facts of the case, in brief, are that the assessee trust filed an application in Form No.10A on 25th August, 2017 seeking registration u/s 12AA of the IT Act, 1961 and an application under Form No.10G for granting approval u/s 80G on 25th August, 2017. In order to examine the objects of the trust and to verify the genuineness of the activities, the Id.CIT(E) issued a notice asking the assessee to furnish various documents/details as per para 4 of the order. The assessee was asked to submit all the details by 30th January, 2018, but, on the said date, there was no compliance for which the matter was fixed for 9th February, 2018. The assessee filed a reply dated 12th January, 2018 through e-mail. However, there was no proper compliance to the letter issued by the CIT(E). He, therefore, proceeded to decide the issue on the basis of the trust deed filed along with the application and noted that the status of the assessee trust is of a 'Private Religious Trust' and not a public trust. So, he presumed that the beneficiaries of the parent trust would be specific narrow group and the applicant trust would not inure to the general public at large. He further noted from clause 7 of the object clause that a number of temples have already been constructed from donations collected from people which is earlier than the formation of the applicant trust. Moreover, these constructions have neither been scrutinized by the Department nor revealed by the applicant trust in its balance sheet. He, therefore, refused to grant registration u/s 12AA of the IT Act. Since the registration was denied u/s 12AA, the Id.CIT (E) also rejected the request for grant of approval u/s 80G of the Act.

4. Aggrieved with such order of the CIT(E), the assessee is in appeal before the Tribunal raising the following grounds:-

ITA No.1841/Del/2018

“1. That on the facts and in law, the Id.CIT(Exemptions) was not justified in rejecting the registration application u/s 80G of the IT Act, 1961.

2. That considering the objects of the trust, the application u/s 80G ought to have allowed by him.

The appellant craves to add, or amend the ground of appeals if required and necessary.

It is therefore prayed that the impugned orders of CIT(E) be quashed and the necessary direction be issued to allow necessary relief as the Hon'ble Tribunal may deem fit.”

ITA No.1842/Del/2018

“1. That on the facts and in law, the Id.CIT(E) was not justified in rejecting the registration application u/s 12AA of the IT Act, 1961.

2. That the Id.CIT(E) erred in holding that –

- (a) That the appellant is a private religious trust and not a public trust;
- (b) That beneficiaries are specific narrow group of individuals;
- (c) That there is no evidence of any obligation vis-à-vis the existing mandirs and chaupal;
- (d) That the trust cannot enure to general public and genuineness of activities is not established.

3. That the CIT(E) ought to have allowed the registration considering the objects of the trust.

The appellant craves to add, or amend the ground of appeals if required and necessary.

It is therefore prayed that the impugned orders of CIT(E) be quashed and the necessary direction be issued to allow necessary relief as the Hon'ble Tribunal may deem fit.”

5. We have considered the rival arguments made by both the sides and perused the record. It is an admitted fact that despite opportunities granted by the CIT(E), the assessee did not file the requisite details for which the ld.CIT(E) refused to grant registration u/s 12AA and also rejected the request for grant of approval u/s 80G of the Act. It is the submission of the ld. counsel that given an opportunity, the assessee shall furnish all the requisite details to the satisfaction of the CIT (E). Considering the totality of the facts and in the interest of justice, we deem it proper to restore the issue to the file of the CIT(E) with a direction to grant one final opportunity to the assessee to provide the requisite details and substantiate its claim for registration u/s 12AA of the Act and since this is a prerequisite for grant of approval u/s 80G of the IT Act, the same is also restored to the file of the CIT(E) for deciding the issue afresh.

6. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

The decision was pronounced in the open court on 29.11.2019.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dated:29th November, 2019

dk

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi