

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES: "A", BANGALORE**

**BEFORE SHRI B.R.BASKARAN ACCOUNTANT MEMBER
AND
SMT.BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 2014/Bang/2019

M/s. Chiranthana F-25, 1 st floor, Shriram Sardhana Apartments, Behind M.S Ramaiya Residency, Bangalore, Karnataka, 560006 PAN : AABTC808K	Vs.	The Commissioner of Income tax (Exemptions) Bangalore
APPELLANT		RESPONDENT

**Appellant by : R.E. Balasubramanian, CA
Revenue by : Ms.Neera Malhotra CIT DR**

**Date of hearing : 01-01-2020
Date of pronouncement : 02-01-2020**

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER :

Present appeal has been filed by assessee against order dated 22/07/19 passed by Ld.CIT (E), Bangalore under section 80G(5)(vi) of the Act, rejecting recognition under section 80 G, on following grounds of appeal:

The appellant objects to the order of Ld. CIT (exemptions) Bangalore, on following grounds:

1. *the impugned order is open to facts and law insofar as it is prejudicial to the interest of the appellant.*
2. *The Ld. CIT (exemptions) erred in rejecting the application under section 80 G (5) (vi) for the reasons which are arbitrary, impermissible and beyond what is provided under law.*
3. *The Ld. CIT (exemptions) failed to appreciate the fact that an application under section 80 G can be denied only under the circumstances given in rule 11 AA (5) of income tax rules, 1962.*
4. *The Ld. CIT (exemptions) failed to appreciate that the objects of the appellant are in conformity with the provisions of sections 80 G making it eligible for recognition since they include education, medical assistance and other objects of general public utility.*

For these and such other grounds that may be adduced from time to time, it is requested that the Honorable ITAT may be pleased to set aside the order of CIT and direct that recognition under section 80 G may be granted.

Brief facts of the case are as under:

2. Assessee is a charitable trust established vide trust deed dated 25/10/13, with following objectives:

“2. The object is of the trust are as follows:

The object is of the trust for which the trust is established are:

- I. *to organise, conduct training programmes, workshops, public lectures, seminars, conventions, conferences, meetings, gatherings, Street place, film screenings, theatre, and other cultural forms and to undertake any activity towards the fulfilment of the above objective.*
- II. *To undertake the governmental and non-governmental organisations contractual assignments on works related to rule rural/urban development and functions on their behalf.*
- III. *Generally to do such acts, deeds and other things which are incidental and conducive to the attainment of all or any other of the above objects.*
- IV. *The trust shall not work for profit.*

- V. *The benefit of object shall be available to the target groups irrespective of caste, creed, religion, language or sex.*
- VI. *No amount of income of the trust shall be applied for any religious purpose or given to religious institutions.*
- VII. *The main objectives of the trust shall be to aid, sponsor, support, promote or undertake, mobilise, organise activities leading to the overall development of our society and to promote social, economical, political, educational, cultural development of the society etc.*
- VIII. *At Chiranthana, our main focus is to provide a platform to all children and adults bringing out their best potential which helps them in their overall development.*
- IX. *We given an opportunity to get our child to focus, learn new skills and be confident which will help them manage themselves better.*
- X. *We at Chiranthana used drama as a tool to help bringing out the best in every child. A team of dedicated theatre professionals train the children on different aspects of theatre. The workshops run throughout the year at different centres in Bangalore.*
- XI. *Our workshops for adults are extremely stress relieving uncreative and helps them realise their dreams as well.*
- XII. *Our life skills programs prepare people to face the competitive world of today. We train to different aspects like communication skills, etiquette and grooming, vocabulary enhancement program and all this while having loads of fun.”*

2.1. It has been submitted that assessee obtained registration under section 12AA of the Act on 21/02/18. Assessee applied for registration under section 80 G along with necessary details in Form 10G, which was rejected by Ld. CIT (A). It is submitted that Ld.CIT(E) issued letters calling for details. In this regard, assessee also submitted replies. Ld.CIT(E) after considering the details filed,

rejected assessee's application seeking grant of recognition under section 80 G of the Act vide impugned order on the ground that;

"In the absence of sufficient activities, it is not possible to verify the genuineness of the objects and the activities of the trust. In this connection, reliance is placed on the following decisions:-

- a) *The Hon'ble Karnataka High Court in case of Ganjam Nagappa and Sun trust vs DDIT (E) reported in 269 ITR 59 has held that "grant of exemption or renewal is not automatic in character.*
- b) *Hon'ble Kerala High Court in case of self employers institution vs CIT reported in 247 ITR 18 has held that where there is no material before Commissioner to be satisfied of the genuineness of the activities of the trust is valid reason for rejection."*

Aggrieved by aforesaid rejection, assessee is in appeal before us now.

3. Ld.AR submitted that, its application for grant of registration under section 12 AA of the Act is valid, as on date of rejection of application for recognition under section 80 G of the Act. Ld.AR submitted that Ld.CIT(E) dismissed assessee's application on the ground that , genuineness of the objects and activities of the trust could not be verified in absence of sufficient activities. He submitted that placing reliance upon decision of *Hon'ble Karnataka High Court* in case of *Ganjam Nagappa and Sun trust vs DDIT (E) (supra)* Ld.CIT(E) records that Commissioner in receipt of an application of recognition has to satisfy himself about objects of the company or institution and the guidelines of its activities.

3.1. He submitted that Ld.CIT(E) himself granted assessee registration under section 12 AA of the Act.

He submitted that placing reliance upon decision of *Hon'able Karnataka High Court* in case of *Ganjam Nagappa and Sun trust vs DIT(E) (supra)*, Ld.CIT (E) records that, Commissioner in receipt of an application for recognition u/s.80G, has to satisfy himself about objects of the company or institution, and guidelines of its activities. Ld.AR submitted that there is nothing brought on record by Ld.CIT(E) to establish violation of section 80 G of the act, and that Ld.CIT (E) himself granted assessee registration under section 12 AA of the Act. It was thus submitted by him that there is no basis for rejecting the application for recognition under section 80G.

4. On the contrary, Ld.CIT.DR supported order of Ld.CIT(E) rejecting assessee's application for grant of recognition under section 80G of the Act.

We have perused submissions advanced by both sides in light of records placed before us.

5. Undisputedly, assessee has been granted registration under section 12AA of the Act, and that there is nothing on record brought out by authorities below, or Ld.CIT DR regarding violation of objects of Trust. In support of the contentions assessee placed reliance upon following decisions of coordinate bench of this *Tribunal* on identical issue:

- *M/s Bharat Ratna Sir M Vishweshwarayya Educational Society vs CIT (E) in ITA No. 732/B/2018, vide order dated 12/04/19 for assessment year 2013-14;*

- *M/s.Indic Science Research Trust vs. CIT(E) in ITA No. 1077/B/2018 vide order dated 20/07/18 for assessment year 2018-19;*
- *Vimalalaya Hospital Trust vs CIT (E) in ITA No. 1435/B/2019 vide order dated 29/11/19 for assessment year 2019-20.*

5.1. In our view, grant of approval/recognition under section 80 G of the Act, can act as catalyst to encourage prospective donors to look at intended activities/objects and possibly provide financial support through donations/contributions. In the facts of present case, assessee was holding valid registration under section 12 AA of the Act, as on date of impugned order, which conversely means that Ld.CIT (E) was satisfied with objects of assessee in not disputing the registration under section 12 AA.

5.2. Ld.AR placed reliance upon decision of *M/s.Indic Science Research Trust vs. CIT(E)*, (*supra*), wherein relying on decision of coordinate bench of this *Tribunal* in case of *M/s.Manipal Alumini of Nephrology Trust in ITA No. 548 and 549/B/2013*, this *Tribunal* remanded the issue to Ld.CIT(E), for fresh consideration.

5.3. In our view reasons cited by Ld.CIT(E)(*supra*), are not the requirements mandated by provisions of the act, and cannot be the basis for rejection of assessee's application for recognition under section 80G. We also noticed that Ld.CIT(E) has not examined the application of assessee in terms of section 80 G (5) of the Act. Thus, respectfully following the view taken by coordinate benches of this *Tribunal* in above referred decisions, we remand the question of grant of approval under section 80 G (5) (vi) of the Act to Ld.CIT (E)

for fresh consideration the light of decisions referred to herein above. Needless to say that Ld.CIT(E) will afford proper opportunity of being heard to assessee in accordance with law.

Accordingly grounds raised by assessee stands allowed for statistical purposes.

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

Order pronounced in the open court on 02nd January, 2020.

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER
Dated: 02nd January, 2020

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. Appellant;
2. Respondent;
3. CIT;
4. CIT(A);
5. DR
6. ITO (TDS)
7. Guard File

By Order

Assistant Registrar