

**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. 2011/Bang/2019

Sri.Krishnarajendra Charitable Trust, Bangalore Palace compound, Jayamaharoad, JC Nagar, 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 23/07/19 passed by Ld. IT (E), Bangalore for assessment years 2017-18 to 2019-20 under section 80 G (5) (vi) of the act, under section 80G(5)(vi) of the Act, rejecting recognition under section 80G, 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 wide trust deed dated 10/01/01 to run either with the college (education) and also to carry out charitable activities under relief of poor. It was submitted that, assessee obtained registration under section 12AA of the Act on 28/03/02 and recognition under section 80G was granted on

18/07/03. Assessee applied for registration under section 80 G again on 21/01/19, which was rejected by Ld.CIT(E).

2.1. From records placed before us, it is observed that Ld.CIT(E) issued letters calling for details. In this regard, assessee submitted replies. The Ld.CIT(E) after considering the details filed, rejected assessee's application seeking grant of recognition under section 80G of the Act vide impugned order on the ground that;

".....,the trust is generating surplus year after year and majority of receipts are by way of tuition fee and others. The assessee has not made out case for seeking Greg recognition under section 80 G.

At the stage of recognition under section 80 G, the Commissioner and receipt of an application for recognition has to satisfy himself about the objects of the company or institution and the genuineness of its activities. In this connection reliance what is placed on the following decision:-

a) The Hon'ble Karnataka High Court in case of Ganjam Nagappa and Sun trust vs DIT (E) reported in 269 ITR 59 has held that "grant of exemption or renewal is not automatic in character.

Therefore considering the facts as detailed above it is not a fit case for recognition under section 80G. Hence application for grant of recognition under section 80G(5)(vi) of the IT Act 1961 is hereby rejected."

Aggrieved by aforestated 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 grant of recognition under section 80G of the Act. Ld.AR submitted that Ld.CIT(E) dismissed assessee's application on the ground that trust generated surplus year after year and majority of receipts are by way of tuition fee and others and that assessee has not made out case seeking recognition under section 80 G.

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 the 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 12 AA 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 notice 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 mentioned 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