

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

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

ITA No. 2091/Bang/2019
Assessment Year : 2019 – 20

<b>APPELLANT</b>		<b>RESPONDENT</b>
M/s. Jito Belgaum Chapter, No. 208, Samsukh Complex Khade Bazar, Belagavi – 590 001.  <b>PAN NO : AABAJ2935K</b>	<b>Vs.</b>	The Commissioner of Income Tax (Exemptions), 6 <sup>th</sup> Floor, Unity Building Annex, P. Kalinga Rao Road, Bengaluru.

Appellant by	:	Smt. Suman Lunkar, CA
Respondent by	:	Ms. Neera Malhotra, CIT – DR
Date of Hearing	:	08.01.2020
Date of Pronouncement	:	09.01.2020

**ORDER**

**PERBEENA PILLAI, JUDICIAL MEMBER:**

Present appeal has been filed by assessee against order dated 26/07/19 passed by Ld. CIT (E), Bangalore under section 80G(5)(vi) of the Act, rejecting recognition under section 80G.

**Brief facts of the case are as under:**

**2.** Assessee is an Association of persons and has been constituted by deed of trust/memorandum of Association dated 10/11/11. Assessee has obtained certification under section 12 a read with section 12 AA (1) (b) (i) of the act on 26/11/2017 w.e.f. assessment year 2017-18 in the status of 'Charitable Trust'. Subsequently, assessee applied for registration under section 80G, along with necessary details in Form 10G, on 19/01/19 which was rejected by Ld. CIT(E). It is submitted that Ld. CIT(E) issued letters calling for details. In this regard, assessee 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;

*"as could be seen from the above, the trust is generating surplus year after year and majority of receipts are by way of annual membership fees, reimbursement, interest etc. The assessee has not made out case for seeking 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 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."*

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 09<sup>th</sup> January, 2020.

**Sd/-**  
**(B. R. BASKARAN)**  
**ACCOUNTANT MEMBER**  
Dated: 09<sup>th</sup> 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)
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By Order

Assistant Registrar

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