

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Smt. Beena Pillai, JM & Shri O.P. Meena, AM

ITA No.2284/Bang/2019: Asst. Year 2019-2020

M/s. Mysuru Mattu Chamarajanagara Jilla Arya Edigara Sangha, No.1226/2, New Kantharaj URS Road Krishnamurthipuram Mysuru – 570 004. PAN : AAEAM1432H.	Vs.	The Commissioner of Income-tax (Exemption) Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri. S. V. Ravishankar, Advocate

Respondent by : Sri. Muzaffar Hussain, CIT-DR

Date of Hearing : 22.01.2020	Date of Pronouncement : 26.02.2020
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ORDER

Per Smt.Beena Pillai, JM :

Present appeal has been filed by assessee against order dated 23.08.2019, passed by Ld. CIT (Exemption), Bangalore, on following grounds of appeal:

“1. The order of the learned CIT insofar as it is against the appellant, is opposed to law, equity, weight of evidence, probabilities facts and circumstances of the case.

2. The learned CIT (Exemption) is not justified in refusing to grant recognition u/s 80G of the Income-tax Act, 1961, on the ground that the genuineness of the activities for grant of approval u/s 80G[5](vi) of the Act cannot be verified on the facts and in the circumstances of the appellant’s case.

3. The learned CIT(Exemption) ought to have appreciated that the objects of society are charitable in nature and that the appellant had filed all the details called for by the learned CIT (Exemption), Bangalore and therefore, the learned CIT is not justified in refusing to grant recognition u/s 80G of the Act on the unsustainable ground that the genuineness of the activities for grant of approval u/s 80G(5)(vi) of the Act cannot be verified and consequently, the impugned order passed by the learned CIT(E) deserves to be cancelled and the appellant requires to be granted recognition u/s 80G of the Act.

4. *For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.”*

Brief facts of the case are as under:

2. Assessee is a charitable trust established vide trust deed dated 07/11/2005 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 20/08/2019. Assessee applied for registration under section 80 G, 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. India 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 open court on 26th February, 2020.

Sd/-

(O.P.Meena)

ACCOUNTANT MEMBER

Bangalore ;

Dated : 26th February, 2020.

Sd/-

(Smt.Beena Pillai)

JUDICIAL MEMBER

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Bengaluru.
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst. Registrar/ITAT, Bangalore

		Date	Initial	
1.	Draft dictated on			Sr.PS
2.	Draft placed before author			Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	Date of uploading the order on website			
8.	If not uploaded, furnish the reason			
8.	File sent to the Bench Clerk			Sr.PS
9.	Date on which file goes to the AR			
10.	Date on which file goes to the Head Clerk.			
11.	Date of dispatch of Order.			
12.	Draft dictation sheets are attached			Sr.PS