

**आयकरअपीलीयअधिकरण, हैदराबाद न्यायपीठ**  
**INCOME TAX APPELLATE TRIBUNAL**  
**HYDERABAD BENCH**

**सुश्री सुषमा चावला, उपाध्यक्ष एवं श्रीअनिल चतुर्वेदी, लेखा सदस्य के समक्ष**  
**BEFORE MS. SUSHMA CHOWLA, VICE PRESIDENT AND**  
**MR. ANIL CHATURVEDI, ACCOUNTANT MEMBER**

**[THROUGH VIDEO CONFERENCING AT DELHI]**

**आयकरअपील सं. / ITA No.2178/H/2017**  
**निर्धारण वर्ष/Assessment Year : 2013-14**

M/s. Trinity Infra Ventures P. Murali & Company  
Chartered Accountants  
6-3-655/2/3, First Floor  
Somajiguda, Hyderabad-82

PAN No. AABCG 1937 G

..... अपीलार्थी/ Appellant

Vs.

DCIT, Central Circle-3(1),  
Hyderabad

..... प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / <b>Applicant by</b>	:	<b>Shri P. Murali Mohana Rao, AR</b>
प्रत्यर्थी की ओर से / <b>Respondent by</b>	:	<b>Shri Sunku Srinivasu, DR</b>

सुनवाई की तारीख / <b>Date of Hearing</b>	:	<b>17-06-2020</b>
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	<b>29-06-2020</b>

**आदेश/ORDER**

**PER ANIL CHATURVEDI, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order dated 22.11.2017 of the Commissioner of Income Tax (A)-11, Hyderabad relating to Assessment Year 2013-14.

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2. The relevant facts as culled from the material on records are as under:

3. Assessee is a company stated to be engaged in the business of Real Estate. It filed its return of income for A.Y. 2013-14 on 29.09.2013 declaring total income of Rs.13,67,710/-. The case was selected for scrutiny and thereafter, the assessment was framed u/s 143(3) vide order dated 31.12.2015 and the total income was determined at Rs.59,67,459/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A), vide order dated 22.11.2017 in Appeal No.205 DCIT CC-3(1)/CIT(A)-11 Hyd/15-16 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal before us and has raised the following grounds :-

- “1. *The order of the Ld CIT(A) is erroneous both in law and on facts.*
2. *The Ld CIT(A) erred in dismissing the Appeal.*
3. *The Ld CIT(A) erred in upholding the disallowance of Land Development Expenses for Rs.19,17,251/-, without appreciating the fact that the assessee maintains all the relevant documents pertaining to the expenses.*
4. *Without prejudice to ground no.3, the Ld CIT(A) ought to have appreciated that the disallowance of land development expenses @20% is on very high side.*
5. *The Ld CIT(A) has erred in disallowing the deduction claim u/s 80G for Rs.26,82,500/-.*
6. *The Ld CIT(A) ought to have appreciated that the rule of one time approval u/s 80G would also*

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*apply to the assessee for the A.Y 2013-14 even though the impugned certificate in the assessee's case has been issued on 25.06.2008 i.e., much earlier to 01.10.2009.*

7. *The Ld CIT(A) ought to have appreciated that in view of omission of the proviso to section 80G(5)(vi) of the Act vide Finance (no.2) Act, 2009, the approval once granted shall continue to be valid in perpetuity.*
8. *Without prejudice to other grounds, the Ld CIT(A) ought to have appreciated that even if the appellant were to file an application for renewal, the competent authority for granting the impugned approval is required to decide the issue in accordance with only the amended provision of section 80G of the Act.*
9. *The appellant may add or alter or mend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”*

4. Before us, at the outset, Learned AR submitted that ground No.1, 2 & 9 are general in nature and hence no separate adjudication is required.

5. He submitted that Ground No.3 to 4 are interconnected and are with respect to Land Development Expenses for Rs.19,17,251/-.

6. During the course of assessment proceedings, AO noticed that assessee had debited Rs.95,86,257/- towards “Land Development Expenses”. The assessee was asked to furnish the Ledger accounts and evidence in support of the claim. AO noted that assessee only produced the ledger

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extract of the expenditure but did not produce any evidence to support the claim. In the absence of any supporting, AO proceeded to disallow 20% of the Land Development Expenses which worked out to Rs.19,17,251/- and made its addition. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who upheld the action of AO. Aggrieved by the order of CIT(A), assessee is now before us.

7. Before us, Learned AR pointed to the Ledger account of the Land Development Expenses which is placed at Page No.24 of the paper book. He submitted that incurring of expenses has not been doubted by the Revenue authorities but as the assessee could not produce the relevant details. AO had proceeded to disallow 20% of the expenses. He submitted that the disallowance of 20% of the expenses is on a higher side and that the disallowance be restricted to 5%. Learned DR on the other hand supported the order of lower authorities and submitted that in the absence of details, the AO had no other option but to disallow the expenses and the AO was reasonable in disallowing the expenses only to the extent of 20%. He, thus supported the order of lower authorities.

8. We have heard the rival submissions and perused the material available on record. The issue in the present ground with respect to disallowance of Land Development

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Expenses on ad hoc basis. It is an undisputed fact that the assessee is in the real estate business and the expenses are on account of "Land Development". It is also a fact that it is not the case of the Revenue that the expenses incurred by it under this head is bogus as is evident by the fact that AO has not disallowed the entire expenses but has only disallowed 20% of the expenses. Considering the totality of the aforesaid facts, we are of the view that the disallowance made by the AO at 20% is at a higher side. We are of the view that the interest of justice shall be met if the disallowance is restricted to 10% of the expenses. We, thus direct accordingly. **Thus, the ground of appeal is partly allowed.**

9. Ground No. 5 to 8 are with respect to disallowing the deduction claim u/s 80G.

10. During the course of assessment proceedings, AO noticed that assessee had claimed deduction of Rs.26,82,500/- u/s 80G of the Act (being 50% of the actual donation of Rs.53,65,000/-). The assessee was asked to furnish the evidence and produce receipts for the claim of deduction. AO noted that the perusal of Ledger account revealed that most of the entries were journal entries and further assessee did not produce any receipts to support the claim. He, therefore, held that assessee did not qualify for deduction u/s 80G and accordingly, denied

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the claim of deduction. Aggrieved by the order of AO assessee carried the matter before the CIT(A) who upheld the order of AO. While upholding the addition, Learned CIT(A) also noted that the approval by DIT(E) granting approval u/s 80G(2) & (5) was dated 25.06.2008 and was effective from 01.04.2007 to 31.03.2010. Since the assessment order in the case was for A.Y 2013-14, he after considering CBDT Circular No.7/2010 dated 27.10.2010, in the absence of valid approval, held the addition by AO to be justified. Aggrieved by the order of CIT(A), Assessee is now before us.

11. Before us, assessee pointed to the Ledger of donation account which is placed at Page No.25 of the paper book. From that Ledger extract, he submitted that assessee only wants adjudication with respect to the donation aggregating to Rs.46,00,000/- made to Society For Promotion of Youth & Masses (SPYM). He submitted that the amounts has been paid by the Assessee through cheques but could not produce the same before the lower authorities. He further submitted the CIT(A) was not justified in holding that the approval for 80G had expired because exemption when once granted, shall be deemed to have continued in perpetuity unless it is withdrawn as per the provisions of the Act. He submitted that there is nothing on record to show that the approval granted to the trust to whom the donations have been given by the

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Assessee has been withdrawn. He further placed reliance on the decision of Delhi ITAT in the case of Mahila Mangal Charitable Trust vs. DIT(E) [ITA No.4166/Del/2011 dated 31.03.2012], decision of Punjab and Haryana High Court in the case of CIT vs. Bhola Bhandari Charitable Trust (2013) 351 ITR 469 (P & H) for the proposition that once statute gives perpetuity to exemptions granted u/s 80G(5), same could not be withdrawn without issuing show-cause notice to the Trust. He therefore, submitted that assessee be granted an opportunity to produce the receipts before the AO so as to prove about the genuineness of the donation. He, further submitted that the assessee undertakes to produce required details before the AO. On the other hand Learned DR did not seriously objected for the granting of an opportunity to the assessee for producing the evidence before the AO but however supported the order of lower authorities.

12. We have heard the rival submissions and perused the material available on record. Before us, it is AR's contention that Assessee wants adjudication only with donation of Rs.46,00,000/- made to SPYM. It is the AR's contention that the amount of donation has been made to SPYM through banking channels and has the relevant receipts but it could not be produced for verification before lower authorities. It is further his prayer that an opportunity be granted to him to produce the same before

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the lower authorities. We further find that Assessee's submission that the approval of the Trust u/s 80G continues and has not been withdrawn has not been controverted by Revenue. Considering the aforesaid submission and undertaking given by the AR, we are of the view that one more opportunity be granted to the assessee to produce the relevant evidence of giving the donation. We, therefore, direct the assessee to produce the necessary evidence before the AO. The AO is directed to verify the evidence furnished by the assessee and after its verification the claim of the assessee is found to be correct, the assessee be allowed the claim of the deduction in accordance with law. **Thus ground of assessee is allowed for statistical purposes.**

**13. In the result, the appeal filed by the assessee is allowed for statistical purposes.**

Order pronounced in the open Court on day of 29<sup>th</sup> June, 2020.

**Sd/-**

**(SUSHMA CHOWLA)  
VICE PRESIDENT**

New Delhi/Dated: 29<sup>th</sup> June, 2020

*Priti Yadav, Sr. PS\**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Copy of the Order forwarded to :

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A)*
4. *The Pr. CIT*
5. *DR, ITAT – Hyderabad*

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6. *Guard File*

BY ORDER,

(Dy./Asst. Registrar)  
ITAT, Hyderabad