

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI S. S. VISWANETHRA RAVI, JM

आयकर अपील सं. / ITA No.176/PUN/2019

Maharashtra Institute of
Research and Development,
246A, Maharashtra Market,
Tarabai Park, Kolhapur-416003.

PAN : AAATT1562A

.....अपीलार्थी / Appellant

बनाम / V/s.

CIT (Exemption),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod S. Shingate
Revenue by : Shri Shekhar L. Gajbhiye

सुनवाई की तारीख / Date of Hearing : 06.11.2020

घोषणा की तारीख / Date of Pronouncement : 06.11.2020

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee society directed against the order of the Id. Commissioner of Income Tax (Exemption), Pune dated 27.12.2018 passed u/s 80G(5)(vi) of the Income Tax Act, 1961 (for short "the Act") denying the approval under the provisions of section 80G(5) of the Act.

2. The appellant society raised the following grounds of appeal :-

"1. On the facts and circumstances of the case and in law the Ld CIT erred in rejecting renewal of recognition u/s 80G on the ground of not having been satisfied about the charitable nature of activities of the trust or genuineness of its activities in spite of the fact that the appellant trust has continued the same activities as in the past and all documents as called for by the Ld. CIT were submitted by it.

The appellant craves leave to add to, amend, alter, delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.”

3. The brief facts of the case are as under :-

The appellant society is registered under the provisions of Society Act, 1860. It is formed with the objects of establishing educational institutions for the purpose of imparting education etc. The trust was granted registration u/s 12AA of the Act on 16.03.1984. The appellant society filed Form 10G on 22.06.2018 for approval u/s 80G of the Act. On perusal of the said application, the Id. Commissioner of Income Tax (Exemption) had called for certain information in order to enable himself to satisfy about the genuineness of the activities carried on by the trust on 17.11.2018. It is stated that the appellant society had duly complied with the said notice by filing the required details on 29.11.2018. On perusal of the information filed, the Id. Commissioner of Income Tax (Exemption) noticed the following facts :-

“(i) The assessee has shown FDR as on 31.03.2016 at RS. 35 Lacs but source is not explained.

(ii) The assessee has shown receipts of RS. 3.59 Lacs by way of interest on FDR during F.Y. 2015-16 and application has been shown at Rs. 3,49,201/- for educational purpose, but no evidence in support of application of funds for educational purpose has been produced. Further the trust is not running any educational activity / institutions and therefore it is not ascertained in what manner the funds were utilized for educational purpose.

(iii) In F.Y. 2016-17, the trust has shown application of Rs.20.15 Lacs for educational purpose but again no evidence as in what manner it was utilized for education, has been produced.

(iv) Further no income and expenditure account and balance sheet for F.Y. 2017-18 has been submitted.”

4. Based on the above finding, the Id. Commissioner of Income Tax (Exemption) had come to the conclusion that no evidences had been filed in support of the charitable activities carried on by the appellant society. Accordingly, he had come to the conclusion that the appellant society had

failed to establish the charitable nature of the objects as well as the genuineness of the activities and therefore, rejected the grant of recognition u/s 80G(5)(vi) of the Act vide impugned order dated 27.12.2018.

5. Being aggrieved by the above order of ld. Commissioner of Income Tax (Exemption), the appellant society is before us in the present appeal.

6. Before us, it is submitted that the appellant had duly submitted the required information called for by the ld. Commissioner of Income Tax (Exemption). The facts considered by the ld. Commissioner of Income Tax (Exemption) are the items of assessment and cannot be enquired into at the time of grant of approval u/s 80G(5)(vi) of the Act. He further submitted that there is no finding by the ld. Commissioner of Income Tax (Exemption) on the failure of the assessee to fulfil the requirements stipulated u/s 80G(5)(vi) of the Act. Thus, it was submitted that the ld. Commissioner of Income Tax (Exemption) should be directed to grant approval u/s 80G(5)(vi) of the Act.

7. On the other hand, ld. CIT-DR has submitted that the provisions of section 12AA and section 80G(5)(vi) of the Act are mutually exclusive and the ld. Commissioner of Income Tax (Exemption) has to reach satisfaction as to the charitable nature of the objects of that society as well as the genuineness of the activities of the trust. In the absence of the requisite information, ld. Commissioner of Income Tax (Exemption) could not come to the conclusion as to the charitable nature of the objects as well as the genuineness of the activities of the trust. Thus, it was submitted that the ld. Commissioner of Income Tax (Exemption) had rightly rejected the approval u/s 80G(5)(vi) of the Act. He also placed reliance on the decision of the Hon'ble Karnataka High

Court in the case of DIT (Exemptions) vs. Sri Jain Educational Social Cultural Welfare Charitable Trust, 50 taxman.com 199.

8. We heard the rival submissions and perused the material on record. The solitary issue in the present appeal relates to whether or not the Id. Commissioner of Income Tax (Exemption) is justified in denying the recognition u/s 80G(5)(vi) of the Act. The Id. Commissioner of Income Tax (Exemption) had denied the recognition u/s 80G(5)(vi) of the Act primarily on the ground that in the absence of income and expenditure account for the financial year 2017-18, he could not come to the conclusion as to the charitable nature of objects as well as the genuineness of the activities of the trust/institutions. Accordingly, he denied the recognition u/s 80G(5)(vi) of the Act. However, it is a matter of record that the due date for filing of the return of income for the assessment year 2018-19 had not expired as on the date when the notice calling for the information was issued. In any event, it is the case of the appellant that he had filed the financial statement for the financial year 2017-18 also during the course of proceedings before the Id. Commissioner of Income Tax (Exemption). Moreover, it is undisputed fact that the appellant society continues to enjoy the registration u/s 12AA of the Act, therefore, it cannot be said that the objects of the appellant society are not charitable in nature. In any event, since the order of the Id. Commissioner of Income Tax (Exemption) is premised on the wrong assumption that the financial statements for the financial year 2017-18 were not filed. We direct the Id. Commissioner of Income Tax (Exemption) to examine the financial statements afresh and then come to conclusion as to the genuineness or otherwise of the activities of the appellant society and

decide the application afresh after affording reasonable opportunity of being heard to the appellant society.

9. In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced on this 06th day of November, 2020.

Sd/-

(S. S. VISWANETHRA RAVI)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 06th November, 2020.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Exemption), Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.