

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.375/Bang/2020
Assessment Year: 2019-20

M/s. Aanika Educational Trust, P-48 Sector 10 LIC Colony, 8 th Cross, 6 th Main, Jeevan Bhima Nagar, Bangalore – 560 075. PAN NO : AAFTA 2446 R	Vs.	CIT(Exemptions), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri. C. Ramesh , CA
Respondent by	:	Shri. Muzaffar Hussain, CIT(DR)(ITAT)

Date of Hearing	:	01.12.2020
Date of Pronouncement	:	02.12.2020

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal is by the assessee directed against the order of CIT(E) dated 21.01.2020.

2. The assessee raised the following grounds:

1. *The CIT (Exemption) was not correct in not granting recognition u/s 80G though the Appellant's activities relating to education purpose.*

2. *The CIT (Exemption) was not correct in treating that the Trust has not carried out noticeable activities to grant exemption u/s.80G of the Act, though the Appellant's activities covered for granting recognition u/s.80G.*
3. *The CIT (Exemption) erred in following decisions in the case of Ganjam Nagappa and Son and Self Employers institution as these decisions are not applicable to the Appellant's case and it is totally different.*
4. *The Appellant craves leave to add, to alter, to amend or to delete any of the grounds that may be urged at the time of hearing of the Appeal*

3. The assessee duly registered under section 12AA of the Income Tax Act, 1961 (hereafter called 'the Act'). The assessee applied for grant of recognition under section 80G of the Act on 03.07.2019. The CIT(E) called for details regarding their objects. The same was submitted by assessee. The CIT(E) was of the opinion that it is not possible to verify the genuineness of the objects and activities of the trust since there is no sufficient activities carried on by the assessee. Accordingly, he placed reliance on the judgment of Hon'ble Karnataka High Court in the case of Ganjam Nagappa and Sons Trust Vs. DIT(E) reported in 269 ITR 59 wherein it was held that grant of exemption by renewal is not automatic in the character. Further, he relied on the judgment of Hon'ble Kerala High Court rendered in the case of Self Employers Institution Vs. CIT reported in 247 ITR 18 wherein it was held that where there is no material before the Commissioner to be satisfied of the genuineness of the activities of the trust is a valid reason for rejection. Accordingly, he rejected the application filed by the assessee for recognition under section 80G of the Act. Against this, assessee is in appeal before us. Learned AR submitted that the CIT(E) that the main activities carried since its establishment are relating to providing of Education. The assessee is running an Education institution under the name of Sri Sri Ravishankar Vidya

Mandir , which is recognized and approved by Government of Karnataka for preprimary to higher primary education up to 8th standard. It was further submitted that the assessee Trust has started providing education to poor students and also other students and there is no restriction in providing the education to any case, creed and religion. Presently in the institution totally 400-450 students are studying from LKG to 7th Standard. The assessee has provided the details of Fees Collection and Expenditure spent from AY 2017-18 (FY 2016-17) to AY 2019-20 (FY 2018-19) which is as under:

Year	Fees Collection	Expenditure Spent
AY 2017-18(FY 2016-17)	Rs. 26,50,000	Rs.24,00,800
AY 2018-19 (FY 2017-18)	Rs.79,99,067	Rs.78,84,142
AY 2019-20 (FY 2018-19)	Rs.2,16,58,000	Rs.1,42,35,775

4. Learned AR of the assessee stated that the assessee Trust carries on the education activities through its institution. Hence the averments of CIT (E) was not correct that the assessee has not carried noticeable activities in the Trust, though the Financial statements of the Trust were available on record. The CIT (E) on receiving the Application has sought clarification by issue of notice dated 31.12.2019. However after submitting the clarification/documents no further opportunity are accorded. CIT (E) has rejected the Application for grant of Recognition u/s.80(G), though he gave approval for Registration u/s.12AA of the Act.

5. The assessee Trust has carried the charitable activities since its establishment by running an Education institution and not for the purpose of generating income of the Trustees. Further it is submitted that the CIT (E) has given Approval for Registration u/s.12AA as Appellant Trusts has carried activities for relief of poor, education and advancement of any other object of

the general public utility. Learned AR submitted that the CIT(E) is not justified in rejecting the application for Granting of Recognition u/s.80(G) of the Act and the decisions relied upon by him are not applicable to the Appellant Case. Further the assessee has established that it is carrying education activities since its establishment and hence, the Appellant Trust is eligible to grant Recognition u/s.80G of the Act.

6. Learned AR further submitted that the Tribunal has directed to Grant Recognition u/s.80G in the case of Nandikur Education Trust Vs CIT (E) (ITA 29/Bang/2020) dated 25.02.2020, has held that the application for recognition u/s.80(G) cannot be rejected in absence of activities of the Trust. However the present case the assessee Trust is carrying on the educational charitable activities since its establishment. Hence, this decision is squarely applicable to the assessee's case. The assessee has relied on the following judgments:

1. Vidyashilp Community Trust Vs CIT (E) {ITA No.1619/Bang/2019} dated 15.11.2019, Bangalore ITAT.
2. Chiranthana Vs CIT (E) [ITA no.2014/Bang/2019} dated 02.01.2020 (ITAT Bangalore)
3. OLA Foundation Vs CIT (E) { ITA no.215/Bang/2018 dated 26.10.2018 (ITAT Bangalore)
4. Vimalalaya Hospital Trust Vs CIT (E) in ITA 1435/Bang/2019 Vide order dated 29.11.2019 for AY 2019-20.

7. On the other hand, learned DR relied on the order of CIT(E).

8. We have heard both the parties and perused the material on record. One of the conditions for granting recognition under section 80G is that the trust should be registered under section 12AA of the Act. In this case, there is no allegation that the trust is not registered under section 12AA as charitable

institution. The registration so granted had not been cancelled even till date. The original object of the trust based on which approval under sections 12A/12AA of the Act being granted has been continuing. The assessee was carrying on some objects based on which approval was granted under sections 12A/12AA of the Act. However, the observation of the CIT(E) is that the assessee has not carried sufficient activities. It was submitted that assessee is providing education poor students and also other students and there is no restriction in providing the education to any caste, creed and religion. Presently in the institution totally 400-450 students are studying from LKG to 7th Standard. The appellant has provided details of the fee collection and expenditure spent from Assessment Year 2017-18, 2018-19 and 2019-20 as narrated above in its AR's arguments. It can be rightly said that the assessee is carrying on its objects. Being so, there is no merit in the finding of CIT(E) that there are no sufficient activities carried on by the assessee. The original objects continue to exist and assessee is a charitable institution and assessee is eligible for continuation of recognition under section 12A/12AA of the Act. Principle of consistency is also in favour of the assessee as based on the factual position. The assessee is carrying on the same objects as approved by the Department. Being so, there is no justification for rejecting the application for renewal under section 80G of the Act. The judgment relied on by the CIT(E) in its order is with regard to the fact that approval is not automatic since no charitable activities were being carried on by that assessee. In the present case, assessee filed details wherein assessee clearly demonstrated that assessee has been running the educational institution and it is not dormant and assessee being so, we direct the CIT(E) to grant the recognition under section 80G of the Act.

9. In the result, appeal of the assessee is allowed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(BEENA PILLAI)
Judicial Member

Sd/-
(CHANDRA POOJARI)
Accountant Member

Bangalore,
Dated : 02.12.2020.
NS*

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**