

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

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos. 597 & 598/PUN/2020

Ganga Education Society,  
6/274, Near Recreation Hall,  
At Post Ichalkaranji,  
Pin-416 115.  
PAN : AACAG4583F

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Commissioner of Income Tax (Exemption),  
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte

Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 06.01.2021

घोषणा की तारीख / Date of Pronouncement : 06.01.2021

**आदेश / ORDER**

**PER BENCH:**

These two appeals preferred by the assessee emanates from the different orders of the Ld. CIT(Exemption) Pune dated 29.09.2020 and 24.09.2020 passed u/s.12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') & u/s. 80G(5)(vi) of the Act respectively as per the grounds of appeal on record.

In these two appeals filed by the assessee before us, the grievance of the assessee pertains to the rejection of application for registration u/s. 12AA(1)(b)(ii) of the Act and also of the corresponding exemption u/s.80G(5)(vi) of the Act.

First we would take up the appeal in ITA No.598/PUN/2020 for adjudication.

**ITA No.598/PUN/2020**  
**( u/s.12AA(1)(b)(ii) of the Act)**

2. The brief facts of the case are that the assessee/applicant made an online application in Form No.10A for approval of the Trust/Institution u/s.12AA of the Act on 20.01.2020 under the category of charitable trust/institution as per the CBDT Notification No. S.O.2033 (E) dated 24.06.2020 read with provisions of The Taxation and Other Laws (Relaxation Of Certain Provisions) Ordinance 2020 No.2 of 2020 dated 31.03.2020. The assessee/ applicant trust was registered under Bombay Public Trust Act, 1950 with registration Number F-34116 dated 26.11.2015. The application was carefully perused and considered along with its annexures. Thereafter, a letter was issued through ITBA portal to the assessee/applicant on 12.02.2020 requesting to upload certain other information and clarification in order to process the application. The applicant submitted its compliance on ITBA portal in response to the said notice.

3. Reverting to the further facts of the case, on perusal of the Ld. CIT(Exemption)'s order Para 3 onwards, we find that the assessee/applicant has claimed to have been engaged in educational activities and charging fees

to the students. In this connection, the assessee/applicant was requested to submit relevant details viz. list of institutes run with granted/non-granted status, copy of affiliation certificate, details of salary paid to teaching/non-teaching staff with TDS and PF made there from, details of admission procedure and fee structure etc. Further, it was specifically requested to furnish details of admissions given to students from weaker sections of the society and the details of RTE norms (Right to Education) followed by it, along with evidences. However, the assessee/ applicant has not submitted compliance in this regard although ample opportunity was given to it. At Para 3.2 of the Ld. CIT(Exemption)'s order, it is stated that as per the recent amendment to the provisions of section 12AA of the Act, the compliance to the requirement of any other law for the time being in force by the assessee/applicant as are material for the purpose of achieving the objects of the institution are also the same to be verified as per the provisions of section 12AA(1)(a)(ii) of the Act. At Para 3.3 of the Ld. CIT(Exemption)'s order, it is further stated that the compliance to the provisions of Right to Education Act is directly related to the object of the assessee/applicant. The assessee/applicant being engaged in education activities, verification of admissions given to the students from financially weaker sections of the society/RTE category students is most relevant but in absence of relevant details, the satisfaction about the compliance of the requirements of section 12AA(1)(a)(ii) of the Act by the assessee/applicant could not be arrived at by the Ld. CIT(Exemption). Therefore, the application for grant of registration was rejected by the Ld. CIT(Exemption).

4. Before us, the Ld. Counsel for the assessee submitted that when the application for registration was made by the assessee/applicant by that time

some admissions of students have already been made corresponding fees collected. Therefore, from the purview of provisions of Section 12AA of the Act, it is the prerogative of the Ld. CIT (Exemption) to arrive at satisfaction as per Section 12AA of the Act by asking for relevant evidences/documents in connection thereof. In this case, the fees structure and other related documents pertaining to Right to Education Act and other evidences were not furnished before the Ld. CIT(Exemption) which is evident from record. In this scenario, it was submitted by the Ld. Counsel for the assessee that one final opportunity may be granted to the assessee so that they may produce all the necessary details before the Ld. CIT(Exemption).

5. On the other hand, the Ld. DR raised no objection on the submissions of the Ld. Counsel for the assessee praying for restoration of the matter before the Ld. CIT(Exemption).

6. Therefore, taking the totality of facts and circumstances into consideration, we are of the considered view that one final opportunity should be given to the assessee/applicant in the interest of justice. In view thereof, we set aside the order of the Ld. CIT(Exemption) dated 29.09.2020 and restore the matter back to his file for re-adjudication while complying with the principles of natural justice. At the same time, it is directed to the assessee/applicant that this being the final opportunity, they should produce all the relevant evidences/documents as called for by the Ld. CIT(Exemption).

7. In the result, **appeal of the assessee in ITA No.598/PUN/2020 is allowed for statistical purposes.**

**ITA No.597/PUN/2020**  
**( u/s.80G(5)(vi) of the Act)**

8. The appeal in ITA No.597/PUN/2020 pertains to the non-granting of exemption u/s.80G of the Act.

9. The Ld. CIT(Exemption) vide Para 3 of his order dated 24.09.2020 as stated therein the assessee/applicant was not having any registration u/s.12AA of the Act as on the date of filing of application for recognition u/s.80G(5)(vi) of the Act. The application made by the assessee/applicant in Form No.10G on 24.01.2020 is not accompanied by the copy of registration u/s.12AA of the Act. In fact, it was noticed that the application filed by the assessee/applicant on 11.02.2019 for registration u/s.12AA of the Act has been rejected vide order dated 30.08.2019. Thus, the assessee/applicant does not satisfy the requirement laid down under Rule 11AA of the Income Tax Rules, 1962 ( in short 'the Rules') for recognition u/s.80G(5)(vi) of the Act. Since, the assessee failed to produce documents as required by Rule 11AA of the Rules, the condition laid down in Section 80G(5)(vi) of the Act read with such Rule 11AA of the Rules were not satisfied and hence, request for approval u/s.80G(5)(vi) of the Act was rejected by the Ld. CIT(Exemption).

10. We have already decided and observed as on the facts and circumstances pertaining to registration u/s.12AA of the Act in foregoing Paragraphs regarding the applicant/assessee. The matter has been restored to the file of the Ld. CIT(Exemption). Therefore, considering the substantive parameters of justice and for the fact that condition laid down in Section 80G(5) of the Act read with Rule 11AA of the Rules has to be satisfied for recognition u/s.80G(5)(vi) of the Act, this matter is also restored to the file of

the Ld. CIT(Exemption) to take it to logical end while complying with the principles of natural justice.

11. In the result, **appeal of the assessee in ITA No.597/PUN/2020 is allowed for statistical purposes.**

12. In the combined result, **both the appeals of the assessee are allowed for statistical purposes.**

Order pronounced on 06<sup>th</sup> day of January, 2021.

Sd/-  
**INTURI RAMA RAO**  
**ACCOUNTANT MEMBER**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 06<sup>th</sup> January, 2021  
SB

**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 //

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	06.01.2021	Sr.PS/PS
2	Draft placed before author	06.01.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		