

**IN THE INCOME TAX APPELLATE TRIBUNAL, AMRITSAR BENCH, AMRITSAR
(VIRTUAL COURT AT CHANDIGARH)**

BEFORE: SHRI. N.K.SAINI, VP & SHRI, R.L. NEGI, JM

आयकर अपील सं./ ITA No. 52/ASR/2020

निर्धारण वर्ष / Assessment Year :

Shri Atam Vallabh Shramnopasak Gurukul Trust(Charitable) VPO Husanpura Opp Amaltas Hotel Jalandhar Bypass, Ludhiana-141005 Punjab	बनाम	The CIT(Exemptions) Room No. 1,5 th Floor, CR Building Himalaya Marg, Sector 17, Chandigarh
स्थायी लेखा सं./PAN NO: AAHAS1203K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri S.K. Mukhi, Advocate
राजस्व की ओर से/ Revenue by : Smt. Prabhjot Kaur, CIT DR
सुनवाई की तारीख/Date of Hearing : 23/02/2021
उद्घोषणा की तारीख/Date of Pronouncement : 23/02/2021

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT:

This is an appeal by the Assessee against the order dt. 19/12/2019 of Ld. CIT(E), Chandigarh.

2. Following grounds have been raised in this appeal:

1. That the impugned order passes by CIT Exemptions is illegal perverse, erroneous and against the facts and circumstances of the case and the reason / findings itself.

2. That the Id. CIT(Exemptions) is not justified in denying exemption u/s 80G of Income Tax Act, 1961 to the assessee / Trust the trust being eligible for the applied exemption and the order passed is illegal, erroneous, perverse and against the facts on record and circumstances of the case.

3. That the appellant assessee was not afforded reasonable opportunity to submit reply for the questions raised for the applied exemption.

4. That the appellant craves leave to delete or amend any of the grounds of appeal on or before the disposal of the present appeal.

2.1 The only grievance of the assessee in this appeal relates to the rejection of application moved by the assessee for approval under section 80G of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

3. Facts of the case in brief are that the assessee filed an application in Form No. 10G on 10/06/2019 for granting approval under section 80G of the Act. Earlier, the registration was granted to the assessee under section 12AA of the Act on 26/03/2019.

3.1 The Ld. CIT(E) asked the assessee to apprise the activity and as to whether the same were the similar to the objects of the Trust. The Ld. CIT(E) after considering the submissions of the assessee raised the additional query through ITBA on 04/12/2019.

3.2 However the application was rejected by observing in impugned order as under:

" On the fixed date, the assessee failed to provide the information as asked in the query letter dated 04/12/2019. In order to follow the principle of natural justice, another opportunity was accorded to the applicant on 13/12/2019 and matter was fixed for 16/12/2019. On this fixed date also, the applicant has failed to provide the information asked. Given the non-compliance on the occasion afforded to the assessee, it becomes evident that the applicant is not interested in pursuing the matter. In the absence of submissions regarding the activities & other details, it is difficult to verify both the objects & genuineness of activities of the society. It is therefore, concluded that the applicant is not having answer to the queries asked in fixation letter.

4. Further, keeping in view the unresponsive attitude of the applicant, it is concluded that the assessee has failed to discharge it onus, this being a beneficial clause for the assessee, to prove that its income is free from exigibility of taxes. In light of the above, I have no option but to proceed on merits and reject the application for approval u/s 80G of the Income Tax Act, 1961."

4. Now the assessee is in appeal.

5. Ld. Counsel for the Assessee submitted that all the informations were provided to the Ld. CIT(E) and there was no change in the activity as well as the object of the assessee which were there when the registration under section 12AA of the Act was granted.

6. In her rival submissions the Ld. CIT DR strongly supported the order passed by the Ld. CIT(E) and further submitted that when the opportunity was accorded to the assessee, there was no compliance. Therefore the Ld. CIT(E) was justified in rejecting the application moved by the assessee for granting the approval under section 80G of the Act.

7. We have considered the submissions of both the parties and perused the material available on the record. In the present case it appears that the Ld. CIT(E) has not provided due and reasonable opportunity of being heard to the assessee which is evident from his observation that the opportunity was given to the assessee on

13/12/2019 to appear on 16/12/2019. However, nothing is brought on record as to what queries were raised and which informations were not provided by the assessee. It is also not clear as to whether there was any change in the activities & objects of the assessee trust which were there at the time of granting the registration under section 12AA of the Act.

8. We therefore by keeping in view the peculiar facts of this case as narrated above, deem it appropriate, to set aside this case back to the file of Ld. CIT(E) to be adjudicated afresh, in accordance with law, after providing due and reasonable opportunity of being heard to the assessee.

9. In the result, appeal of the Assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 23/02/2021).

Sd/-
आर.एल. नेगी
(R.L. NEGI)
न्यायिक सदस्य/ Judicial Member
AG
Date: 23/02/2021

Sd/-
एन.के.सैनी,
(N.K. SAINI)
उपाध्यक्ष / VICE PRESIDENT

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

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(E)
5. DR, ITAT, AMRITSAR
6. Guard File