

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI MAHAVIR SINGH (VICE PRESIDENT) AND
SHRI S. RIFAUR RAHMAN (ACCOUNTANT MEMBER)**

**ITA No. 7303/MUM/2019
Assessment Year: 2019-20**

Beniprasad Goenka Foundation,
121, Surfin Centre, Marol Co-
operative Industrial Estate, M.V.
Road, Andheri East,
Mumbai-400059.

PAN No. AADTB 0338 B

Appellant

Vs. The Commissioner of Income Tax
(Exemptions),
Room No. 617, 6th floor, Piramal
Chambers, Lalbaug, Parel,
Mumbai-400012.

Respondent

Assessee by : Mr. Lalchand Choudhory, AR
Revenue by : Mr. Rahul Raman, DR

Date of Hearing : 26/04/2021
Date of pronouncement : 11/06/2021

ORDER

PER S. RIFAUR RAHMAN, A.M.

The assessee is in appeal before against the granting of approval u/s 80G of the Income Tax Act, 1961 (in short 'Act') by the CIT(E), Mumbai.

2. We noticed from the record that assessee is a charitable trust registered under Bombay Public Trust, 1950. The assessee was granted Registration u/s 12A of the Income Tax Act, 1961 vide order dated 12.07.2018. Subsequently, the assessee filed an application with the CIT(Exemption) for granting approval u/s 80G(5) of the Act on 03.08.2018.

The Ld. CIT(A) granted approval vide order dated 30.09.2019 for assessment year 2020-21 onward and not from the date of application.

3. Aggrieved with the approval u/s 80G(5) of the Act prospectively from assessment year 2020-21 instead of from the date of application appeal filed by the assessee.

4. Considered the rival submissions of both the parties and it is fact on record that assessee is already approved u/s 12AA of the Act and assessee also applied for registration u/s 80G vide application dated 03.08.2018. As per 4th proviso to section 80G(5) the approval has to be granted from the assessment year immediately following the financial year in which such application is made. Therefore, in our considered view, the approval granted is not as per the above provisions. Therefore, we deem it fit and proper to refer this issue back to the file of CIT(E) to review the approval granted u/s 80G and grant the registration u/s 80G *de novo* as per law.

5. Accordingly, ground raised by the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 11/06/2021.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Mumbai;
Dated: 11/06/2021
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Assistant Registrar)
ITAT, Mumbai