



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

[Through Virtual Hearing]

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.591/LKW/2019
Assessment Year: N.A.

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|--|----|--------------------------------|
| Shambhu Narain Foundation 91, Janakpuri Bareilly | v. | The CIT (Exemption) Lucknow |
| TAN/PAN:AASTS9897H | | |
| (Appellant) | | (Respondent) |

| | | | |
|------------------------|---------------------------------|----|------|
| Appellant by: | Shri A. R. Shukla, Advocate | | |
| Respondent by: | Smt. Abha Kala Chanda, CIT (DR) | | |
| Date of hearing: | 02 | 08 | 2021 |
| Date of pronouncement: | 02 | 08 | 2021 |

ORDER

PER A.D. JAIN, V.P.:

This is assessee's appeal against the order of ld. CIT (Exemption), Lucknow, dated 14.08.2019, passed under section 80G(5)(vi) of the Income Tax Act, 1961, rejecting the application for grant of approval under section 80G of the Act.

2. There is a delay of one day in filing of the appeal. As per the application for condonation of delay, supported by the affidavit of the office clerk of the assessee, Shri Ramesh Rawat, we find that there was sufficient cause for delay in filing of the appeal. Accordingly, we condone the delay and admit the appeal for hearing.

3. The brief facts of the case are that the assessee society filed an application for approval under section 80G(5) of the Act on 19.02.2019 with the CIT (Exemptions), Lucknow. The ld. CIT

(Exemptions) rejected the application, observing that as per the provisions of Rule 11AA of the Income Tax Rules, the application for grant of approval under section 80G of the Act, should have been accompanied by the copies of registration certificate granted under section 12A of the Act, notes on the activities of the institution and also the account of the institution.

4. The main argument of the ld. A.R. of the assessee before us was that the CIT (E) has not provided proper opportunity of being heard to the assessee and passed an ex-pare order, which is against the principles of natural justice; that most of the details/particulars, such as note on the activities of the institution and copies of the accounts of the Institution, were furnished by the assessee at the time of hearing for registration under section 12A of the Act and are already part of the record in the files of the Income tax Department; and that therefore, the rejection of the application of the assessee for grant of approval under section 80G(5) of the Act, on the basis of non-submission of copy of the registration certificate under section 12AA, etc., is not justified. The ld. Counsel for the assessee prayed that as such, the ld. CIT (Exemptions) may be directed to grant approval to the assessee society under section 80G(5) of the Act.

5. The ld. D.R., on the other hand, has placed strong reliance on the order of the ld. CIT (Exemptions), Lucknow.

6. Heard. We find that the ld. CIT (Exemptions) had rejected the application of the assessee for grant of approval under section 80G(5) of the Act, observing that the applicant has not provided any material to fulfill the requirements as enumerated in the provisions of Rule 11AA of the Income Tax Rules, thus, there is no material available on record so as to form any satisfaction regarding the genuineness of the activities

carried out. The CIT (E) has passed the order, rejecting the application of the assessee for approval under section 80G of the Act, in the absence of the assessee. In this view of the matter, we feel that one more opportunity should be given to the assessee to explain its case before the Id. CIT (Exemptions). We are of the view, from the facts of the case, that the assessee has not been given proper and sufficient opportunity before disposing of the application for approval, by the Id. CIT (Exemptions). We, therefore, in the interest of justice, set aside the order of the Id. CIT (Exemptions) and restore the matter to his file with the direction to consider and decide afresh, the application of the assessee for approval under section 80G of the Act, preferably within two months from the date of receipt of this order, on affording reasonable opportunity of hearing to the assessee. The assessee is also directed to be present on the date of hearing and provide the material / clarification as asked for by the Id. CIT (Exemptions).

7. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 02/08/2021.

Sd/-
[T. S. KAPOOR]
ACCOUNTANT MEMBER

Sd/-
[A. D. JAIN]
VICE PRESIDENT

DATED:02/08/2021

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order
Assistant Registrar