

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH : BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.164/Bang/2021
Assessment Year : NA

M/s. Samarpan Association for Culture and Education, 26, Magarath Road, 1 st Cross Ulsoor, Bengaluru – 560 025. PAN : AAXCS 9598 E	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri. Siddesh Nagaraj Gaddi, CA
Respondent by	:	Shri. Pradeep Kumar, CIT(DR)(ITAT), Bengaluru

Date of hearing	:	01.09.2021
Date of Pronouncement	:	02.09.2021

ORDER

Per N.V. Vasudevan, Vice President

This an appeal by the assessee against the order dated 24.03.2021 passed by the CIT(E), Bengaluru, rejecting the application filed by the assessee for grant of recognition under Section 80-G (5) (vi) of the Income Tax Act, 1961(hereinafter called 'the Act').

2. The assessee is a trust. The object for which the trust was recognized as charitable in nature and registration u/s.12AA of the Act was granted to the assessee by the CIT(E) on 27.8.2019. The assessee filed application for grant of recognition under Section 80-G of the Act on 28.1.2020. By the impugned order dated 24.3.2021 the CIT(E) refused to grant recognition to the assessee u/s.80-G(5)(vi) of the Act for the following reasons:

"The details submitted are verified. As verified from the documents and financials submitted, there are no noticeable charitable activities as on date from the date of formation of trust. Hence, in the absence of no noticeable charitable activities, the genuineness of the charitable activity could not be examined to decide to grant recognition u/s 80G of the I T Act. Hence,, there is no option but to reject the application for grant of recognition u/s 80G (5)(vi) of the IT Act 1961, as not eligible. In this connection reliance is placed on the following decisions:-

1. Hon'ble Kerala High Court in the case of Self Employers Institution Vs. CIT reported in 247 ITR 18 has held that where there is no material before the Commissioner to be satisfied on the genuineness of the activities of the trust is a valid reason for rejection."
3. Aggrieved by the aforesaid order of the CIT(E), the assessee has filed the present appeal before the Tribunal.
4. Learned Counsel for the assessee brought to our notice that the details of activities of the Trust was furnished by the assessee before the CIT(E). He pointed out that the CIT(E) did not call upon the assessee to explain as to why there were no charitable activities and how the absence of charitable activity would be a bar to grant of recognition u/s.80-G(5)(vi) of the Act. He therefore submitted that the impugned order being one passed in violation of the principles of natural justice should be quashed. He submitted that when a trust is newly set up and when an approval under Section 80-G is sought, it may not possible for the trust to demonstrate the actual carrying of its activities. He also placed reliance on the decision of Hon'ble Karnataka High Court in the case of DIT(E) Vs. Meenakshi Amma Endowment Trust, 354 ITR 219 (Kar) and decision of

ITAT Jaipur Bench in the case of Anand Incubation Centre Vs. CIT(E), 86 taxmann.com 250 (Jaipur Trib). She also brought to our notice the decision of the Co- ordinate Bench in the case of Vidyashilp Community Trust Vs. CIT(E) in ITA No.1619/Bang/2019, order dated 15.11.2019 wherein on identical facts, the Tribunal remanded the question of recognition under section 80G to the CIT(E) for fresh consideration. Reliance was also placed by the learned Counsel for the assessee on the decision of the Supreme Court in the case of Ananda Social and Educational Trust Vs. CIT, Civil Appeal No.5437-5438/2012 judgment dated 19.2.2021 what is required to be considered by the CIT(E) while granting registration is also "proposed activities". The learned DR relied on the order of the CIT(E).

5. We have considered the submissions of the learned counsel for the assessee. We are of the view that the issue with regard to grant of recognition u/s.80G of the Act to the assessee has to be remanded to the AO for consideration afresh because the impugned order has been passed without affording assessee proper opportunity of being heard. The impugned order is therefore set aside and the CIT(E) will decide the issue of grant of recognition, in the light of the law as explained by the decisions referred to by the learned Counsel for the assessee before us. As held by the Hon'ble Supreme Court, the proposed activities can also be explained by the assessee which can be examined by the CIT(E). As held in the case of Vidyashilp Community Trust (supra) the assessee can furnish additional information on the activities of the trust in the set aside proceedings for examination by CIT(E). Since the order of CIT(E) is also a non-speaking order, he is directed to consider the issue afresh in the light of the law as explained in the decisions cited above and the evidence that may be filed by the assessee with regard to activities of the assessee. The CIT(E) will afford opportunity of being heard to the assessee before deciding the issue.

The appeal of the assessee is accordingly treated as allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

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

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Sd/-
(N. V. VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated : 03.09.2021.
/NS/*

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.