

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'C' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SH. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No. 1082/DEL/2018 (A.Y 2018-19)

(THROUGH VIDEO CONFERENCING)

Hiranyagarbh C/o. N. Kumar Gupta & Associates, 74/1, Nari Shilp Mandir Marg, Near Bindal Bridge, Dehuradun, Uttarakhand AABTH3961J (APPELLANT)	Vs	CIT(Exemption) TC-46V, UP Construction & Infrastructure Development Corporation, Vibhuti Khand, Gomti Nagr, Lucknow (RESPONDENT)
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Appellant by	Sh. Mayank Agarwal, Adv & Sh. Sapan Gupta, CA
Respondent by	Ms. Sunita Singh, CIT DR

Date of Hearing	14.09.2021
Date of Pronouncement	05.10.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 14/12/2017 passed by Income Tax Department, CIT(Exemption), Lucknow for assessment year 2018-19.

2. The grounds of appeal are as under:

1. *“That, the learned CIT (Exemption) has erred on facts and in law in rejecting the appellant Trust's application seeking approval under section 80G (5) of the Act, without properly appreciating the material on record requisitioned by him.*

2. *That, the learned CIT (Exemption) has confused an application for*

exemption u/s 80G with that for registration u/s 12AA and altogether ignored that registration u/s 12AA has been already granted to the trust. It is merely cut copy paste order without appreciating the facts of the matter logically.

3. That, the learned CIT (Exemption) has erred on facts in rejecting the appellant Trust's application for alleged want of photographic evidence and vouchers of charitable activities performed, which in fact were duly put on record along with reply dated 14/12/2017..

4. That, the findings arrived at by the learned CIT (Exemption) about the appellant trust's activities being not charitable are contrary to the facts and circumstances of the appellant trust's case and material placed by it on record before him and runs contrary to the findings of the CIT (Exemption), Lucknow on basis of which the appellant trust was granted registration vide latter's order dated 23.02.20M under section 12AA of the Act. The appellant trust has carried on similar activities post registration under section 12AA of the act, thus it cannot be held that the activities are commercial or non-charitable in nature.

5. That, the learned CIT (Exemption) has erred on facts in stating that the applicant trust is only engrossed in non charitable and commercial activities whereas the proofs put on record clearly substantiate that the trust has been carrying out only charitable activities to in pursuance of the objects set forth in the memorandum of the Trust. The Trust further wishes to put on record that any and every activity undertaken by the trust was purely charitable in nature and in accordance with objects of the trust which were approved for purposes of registration u/s 12AA.

6. That the learned CIT (Exemption) has erred on facts stating that "The applicant had sufficient time and funds at hand to carry out charitable activities during this period but unfortunately except for recital of objects nothing substantial or concrete has been done by the applicant trust in the field of charity." and "It is clearly evident from the material available on record that the applicant has not even intended to make use of the time and funds at hand to carry out any charity

“whereas the Trust would like to submit that as substantiated by the audited financial statements and the income tax returns of the previous years where the Trust received donations which were utilized in whole for charitable activities to achieve the trust’s objective and at no point was the Trust having any ideal funds.”

3. The assessee is a trust registered under the Indian Trust Act, 1882 vide Trust Deed dated 30/5/2015, the trust obtain Registration u/s 12AA of the Income Tax Act, 1961 w.e.f 1/4/2016 vide letter dated 23/2/2017. The assessee trust filed its application for the grant of Registration u/s 80G of the Income Tax Act, on 5/4/2017 in the prescribed format. Notice dated 13/11/2017 was issued by the CIT(Exemption) thereby asking submission of certain documentary details and information along with opportunity of being heard. The assessee submitted reply dated 14/12/2017 containing complete and elaborate response to each query of the CIT(Exemption). The CIT(Exemption) vide order dated 14/12/2017 rejected the application of the assessee thereby stating that the assessee is not indicated in any chargeable purpose which is the pre-requisite for approval u/s 80G.

4. Being aggrieved by the said order dated 14/12/2017, the assessee is before us.

5. The Ld. AR submitted that the order of rejecting Section 80G benefit by the CIT(Exemption) seem to be generic in nature. The Ld. AR submitted that no verification of documents as well as the grant of Section 12AA Registration was not taken into consideration by the CIT(Exemption).

6. The Ld. DR relied upon the order of the CIT(Exemption).

7. We have heard both the parties and perused the material available on record. The assessee/applicant is a trust constituted under trust deed dated

30/5/2015 and has obtain Registration u/s 12AA w.e.f 1/4/2016 vide order dated 23/2/2017. At the time of grant of Registration u/s 12AA, the assessee has given details about the purpose and object of the applicant trust which was related to the religious purposes and not for any other business purpose. Thus, the CIT(Exemption) has totally ignored the fact that the purpose was not at all change from the charitable purpose to any commercial purpose. In-fact, there is no proper reason given by the CIT(Exemption) while rejecting the pre-requisite for approval u/s 80G. Therefore, we are directing the CIT(Exemption) after verifying all the documents as per the pre-required conditions of grant of Section 80G benefits and thereafter grant the benefit of Section 80G as per the law. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 05th Day of October, 2021

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 05/10/2021

*R. Naheed **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

