

आयकर अपीलिय अधिकरण  
मुंबई पीठ "एस.एम.सी" मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं. 4606/मुं/2019 (नि. व. 2014-15)  
ITA No. 4506/MUM/2019 (A.Y.2014-15)

Bhoopati Shikshan Pratisthan,  
Bajaj Bhavan, Jamnalal Bajaj Marg,  
226, Nariman Point,  
Mumbai-400021.

**PAN: AAATB1725H**

..... अपीलार्थी / Appellant

**बनाम Vs.**

DCIT, CPC,  
Post Bag No.2,  
Electronic City Post Office,  
Bangalore, Karnataka-560500.

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Vasanti Patel.  
प्रतिवादी द्वारा/ Respondent by : Sh. Sanjay Sethi and  
Sh. B.K. Bagchi, DRs

सुनवाई की तिथि/ Date of hearing : 04/02/2022  
घोषणा की तिथि/ Date of pronouncement : 07/02/2022

आदेश / ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 09.05.2019 for Assessment Year (AY) 2014-15.

2. Ms. Vasanti Patel appearing on behalf of the assessee submitted that the assessee is a charitable trust registered under section 12A of the Income

Tax Act, 1961 (for short 'the Act'), however, it is not claiming benefit of exemption under section 11 of the Act. The assessee has been filing its return of income in the status of Association of Persons (AOP) for the past several Assessment Years (AYs.). In the impugned AY, the assessee had made donations to Chief Minister's Relief Fund Rs. 25,00,000/- and Vidya Pratishtan Rs. 1,00,000/-. The aforesaid donations were eligible for deduction under section 80G and 80GGA r.w.s 35AC of the Act, respectively. The assessee claimed deduction of Rs. 23,23,164/- in the return of income in respect of said donations. The return of income was processed by CPC, Bangalore under section 143(1) of the Act. The deduction claimed by the assessee under Chapter-VIA were denied to the assessee without affording any opportunity of hearing. The assessee filed rectification petition under section 154 of the Act. The CPC, Bangalore vide order dated 16.04.2019 rejected assessee's rectification petition. The Id. Authorized Representative (AR) pointed that a perusal of the order under section 154 would show that in reasons for rectification, it was specifically pointed that though the assessee is a Trust registered under section 12A, however, the assessee has not made any claim of exemption under section 11 of the Act. The assessee had made claim of deduction under Chapter-VIA, while processing return of income, the benefit of deduction under Chapter-VIA were not allowed. Against the rectification order passed under section 154 dated 16.04.2019, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of assessee stating that the rectification sought is debatable in nature and hence, outside the purview of section 154 of the Act.

3. The Id. AR pointed that in immediately preceding AY i.e. AY 2013-14, the assessee had filed return of income in the status of AOP without claiming the

benefit of exemption under section 11 of the Act. The assessee had claimed benefit of deduction under section 80G/35AC of the Act to the tune of Rs. 17,26,581/-, the same was allowed to the assessee by the AO in scrutiny assessment proceedings. The Id. AR referred to the assessment order dated 02.03.2016 for AY 2013-14 at page no. 39 to 59 of the Paper Book. The Id. AR further referred to the assessment made under section 143(1) for AY 2015-16. The Id. AR pointed that even in the subsequent AY i.e. AY 2015-16, the assessee's claim of deduction under section 80G/80GGA was accepted by CPC. The Id. AR asserted that the rectification sought by the assessee under section 154 of the Act is a mistake apparent from record and is not a debatable issue.

4. Per contra, Sh. B.K. Bagchi representing the Department vehemently defended the impugned order and prayed for dismissing appeal of the assessee.

5. Submissions made by rival sides heard, orders of the authorities below examined. The short issue in the present appeal is whether the assessee's claim of exemption under section 80G/80GGA denied by CPC in 143(1) proceedings is allowable and the denial of same is a mistake apparent on record.

6. The assessee in its return of income for the impugned AY had claimed deduction under Chapter-VIA i.e. under section 80G/80GGA in respect of certain donations. Though, the assessee is a Trust registered under section 12A of the Act, however, the assessee is filing return of income in the status of AOP and has not claimed the benefit of exemption under section 11 of the Act. This fact is not disputed by the Department. In the impugned AY, the CPC processed assessee's return of income and issued intimation under section 143(1) denying the benefit of deduction under section 80G/80GGA. The assessee filed

rectification petition under section 154 of the Act categorically stating that the assessee is a Trust registered under section 12A of the Act, however, the assessee has not claimed exemption under section 11 of the Act, hence, the deductions claimed under Chapter-VIA should be allowed. The CPC rejected assessee's application under section 154 of the Act. Before the CIT(A), the assessee remained unsuccessful. The CIT(A) dismissed the assessee's appeal against the order passed under section 154 on the ground that the issue is debatable.

7. We find that in the preceding AY i.e. AY 2013-14 and in the succeeding AY i.e. AY 2015-16 the assessee's claim of deduction under section 80G/80GGA has been accepted by the Department. Ostensibly, the assessee has been making similar donations in the preceding and the succeeding AYs towards Chief Minister's Relief Fund, and donation to some other eligible institutions and the consequent benefit of deduction under section 80G has been allowed to the assessee. In AY 2013-14 in scrutiny assessment proceedings, the assessee's claim was allowed and in AY 2015-16, the assessee's claim of deduction under section 80GGA was accepted by the CPC as is evident from the intimation under section 143(1) of the Act dated 02.08.2016. Thus, disallowance of assessee's claim of deduction under Chapter-VIA in the impugned AY was purely a computational error which could have been rectified under section 154 of the Act. The assessee had furnished relevant documents evidencing the donations made eligible for deduction under section 80GGA/80G of the Act. The same were not disputed by the Department. It is not a case where the assessee's donations were suspected or the institutions/funds to whom donations were made were under lense of suspicion, therefore, the observations made by CIT(A) for dismissing assessee's

appeal are unsustainable. Consequently, the impugned order is set-aside and the appeal of assessee is allowed. The AO is directed to grant benefit of deduction claimed by the assessee under Chapter-VIA of the Act.

8. In the result, appeal of assessee is allowed.

Order pronounced in the open court on **Monday**, the **07<sup>th</sup>** day of February, 2022.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 07/02/2022

S.K., Sr. PS

**प्रतिलिपि अग्रेषित** Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**