

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "C", BANGALORE**

**Before Shri George George K, JM & Ms.Padmavathy S, AM**

ITA No.604/Bang/2021

M/s.Malla Foundation #11 Meghna Haven, Ndanahalli T.N.Pura Road Kasaba Hobli Mysore – 570 028. <b>PAN : AAFTM3688P.</b>	v.	The Commissioner of Income- tax (Exemption) Bengaluru.
(Appellant)		(Respondent)

Appellant by : Smt.Sheetal Borkar, Advocate

Respondent by : Sri.Pradeep Kumar, CIT-DR

<b>Date of Hearing : 09.03.2022</b>	<b>Date of Pronouncement : 09.03.2022</b>
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**ORDER**

**Per George George K, JM :**

This appeal at the instance of the assessee is directed against CIT(Exemption)'s order dated 24.03.2021.

2. There is a delay of 176 days in filing this appeal. The assessee has filed a petition for condonation of delay and an affidavit stating therein the reasons for belated filing of this appeal. On perusal of the reasons stated for belated filing of the appeal, we noticed that no latches can be attributed to the assessee and there is sufficient cause in filing this appeal belatedly. Accordingly, we condone the delay in filing this appeal and proceed to dispose of this appeal on merits.

3. The brief facts of the case are as follows:

The assessee-trust had applied for grant of recognition u/s 80G of the I.T.Act on 22.01.2020. The CIT(E) rejected the application u/s 80G(5)(vi) of the I.T.Act by holding that the assessee has not produced sufficient proof on the activities of

the assessee-trust. Therefore, by relying on the judgment of the Hon'ble Kerala High Court in the case of Self Employers Institution v. CIT reported in 247 ITR 18, it was concluded by the CIT(E) that it is not possible to verify the genuineness of the activities of the assessee-trust.

4. Aggrieved by the order of the CIT(E), the assessee has filed this appeal before the Tribunal. The learned AR has filed two sets of paper book, in total comprising of 45 pages, inter alia, enclosing therein notice for registration u/s 12AA, reply to the notice for registration u/s 12AA of the I.T.Act, order granting registration u/s 12AA of the Act, copy of the trust deed, copy of the balance sheet, income and expenditure account for the relevant assessment year, case laws relied on, etc., The learned AR submitted that when registration u/s 12AA of the I.T.Act was in force in the relevant assessment year, the CIT(E) has erred in refusing to grant approval u/s 80G of the I.T.Act.

5. The learned Departmental Representative supported the order of the CIT(E).

6. We have heard rival submissions and perused the material on record. The CIT(E) has refused to grant approval u/s 80G of the Act primarily for the reason that the assessee has not produced the necessary proof as regards the activities of the assessee-trust and in absence of the same it is not possible to verify the genuineness of the activities of the assessee-trust. In this context, it is relevant to note that the very same Officer who refused to grant approval u/s 80G of

the Act, was the Officer, who granted registration u/s 12AA of the Act a day prior, i.e., on 23.03.2021. Copy of the order u/s 12AA of the I.T.Act is placed on record at page 3 of the paper book filed by the assessee. We fail to understand how registration u/s 12AA of the I.T.Act has been granted on 23.03.2021 when the Officer concerned has not been able to examine the genuineness of the activities of the assessee-trust. The starting of activities of the trust is not a condition precedent for grant of approval u/s 80G of the I.T.Act. On receipt of the approval u/s 80G of the I.T.Act, the assessee would be receiving donations. The receipts of money through donations are the lifeline for starting the charitable activities of the assessee-trust. In the interest of justice and equity, we are of the view that the matter needs to be examined afresh by the CIT(E). Accordingly, the issue raised in this appeal is restored to the files of the CIT(E) for *de novo* consideration. It is ordered accordingly.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 09<sup>th</sup> day of March, 2022.

**Sd/-**  
**(Padmavathy S)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 09<sup>th</sup> March, 2022.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(Exemption), Bangalore.
4. The CIT, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore