

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI****(DELHI BENCH 'B' : NEW DELHI)****BEFORE SH. R.K.PANDA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**ITA No. 2074/Del/2018  
(Assessment Year : )

M/s. Shreeyans Educational Society 27, Raj Nagar, Pitampura, New Delhi-110034 PAN – AACTS8376H	Vs.	CIT(Exemption) New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	None
Revenue by	Sh. Yagya Saini Kakkar, CIT, DR

Date of hearing:	28.04.2022
Date of Pronouncement:	28.04.2022

**ORDER****PER ANUBHAV SHARMA, JM:**

The appeal has been filed against order dated 27.02.2018 passed by Commissioner of Income Tax (Exemptions), New Delhi ( here in after referred as Tax Authority) u/s. 80G(5)(vi) of the Income Tax Act, 1961 r.w.r. 11A of the Income Tax Act, 1962.

2. Facts in brief are that the appellant filed an application on 21.08.2017 in Form No 10G seeking approval u/s 80G of the Income Tax Act, 1961. The appellant was issued letter dated 21.08.2017 requesting it to submit certain

documents in support of its claim of exemption u/s 80G. The appellant was also required to produce original trust deed/memorandum of association and the case was fixed for 21.09,2017 & notice sent through speed post but same was returned back by the postal authority. However, the appellant submitted part details on 04.09.2017. A reminder letter dated 08.01.2018 was sent vide which another opportunity was given to the appellant to submit the requisite details and the appellant was requested for compliance on 18.01.2018. On 18.01.2018, the appellant submitted part details which were placed on records by the Tax Authority. AR of the appellant was requested by the Tax Authority to furnish Certified Copy of MOA for verification, Provisional Balance Sheet and Income & Expenditure Account for Financial Year 2017-18, Bills & Vouchers, Donation Details, Bank Statements, Notes on activity & Proof of activity which were placed on records. After perusal of the details/documents filed by the appellant, Ld Tax Authority noticed that the trust has been incorporated and given registration u/s 12A of the Act in the year of 1999 which is almost 19 years ago. However, no educational activity has been conducted thereafter. The trust is not found imparting any education since its inception and for so long. Hence, it observed that it is not established that the trust is doing charitable activity as per its object till date. Further, it observed that as the appellant has not shown any mandate for such education as it is not recognized by any Competent Authority to run an educational institutions/school as per its objectives. Hence, looking into the facts of this case, the application seeking exemption u/s 80G was rejected.

3. Now, before Tribunal appellant has raised following grounds of appeal :-

“1. That the learned Commissioner of Income Tax (Exemptions), Delhi has grossly erred both in law and, on facts in not granting approval under section 80G(5)(vi) of the Act read with Rule 11AA of the Income Tax Rules, 1962 vide order dated 27.02.2018.

2. That the learned Commissioner of Income Tax has failed to appreciate that the appellant has been allotted land for the construction of the school building and has applied for the sanction of the school building plan, which clearly establish that appellant in accordance with the objects of the society has been carrying out its activities, and hence denial of the approval on the ground that the appellant was not doing charitable activity as per its objects is wholly misconceived and unsustainable in law.

3. That the learned Commissioner of Income Tax has failed to appreciate that the appellant has not infringed any of the provisions of clauses (i) to (v) of subsection (5) of section 80G of the Act as such, denial of approval under section 80G(5)(vi) of the Act is unsustainable in law.”

4. The case was called for hearing today and non-appeared for the appellant. The notices issued have been received back with the report that premises is under construction. Earlier when notices were issued for 31.01.2022, report was received that house is demolished and similar report was received for 23.11.2021. It appears that appellant is not interested to prosecute the appeal; therefore arguments of Id. DR Ld. Sr. DR were heard who supported the orders of Ld. Tax Authority and on basis of written submission submitted that the appellant-institute was granted registration under section 12A on 9-10-1996. The institute was also granted approval under section 80G on 2-4-1997 for the period from 17-8-1996 to 31-3-1999 on the basis of which the institution must have received the enormous amount of donations which the institute was supposed to incur to achieve the main object of the society. Now the present application for approval under section 80G of the Act has been moved on 29-12-2008, i.e., after a period of over 9 years. It was submitted that from the objects of the society, it appears that the main object of the society, as borne out from the trust deed, was to establish schools and colleges, which would be open to students of all communities for education. It was submitted that the Commissioner before granting approval under section 80G is empowered to satisfy himself about the fact that the

activities of the appellant are genuine and in consonance with the objects of the trust. In other words, if establishing and running of a school/college is the main object of the society, the Commissioner had to satisfy himself whether the society during this period of 12 years has established the school/college, where the education is being imparted and the factum of establishment and running of school/college is a genuine activity carried out by the society. As the appellant society failed in establishing before the Commissioner that it has constructed the school/college and is imparting education to students, then the Commissioner was well within his powers to refuse the grant of approval to the appellant society by recording a finding that the society failed in establishing that it has constructed school/college and it is imparting education and, consequently, failed to satisfy about the genuineness of the activities of the appellant society/institution. It was submitted that during this entire period till date the society's main object was to muster as much donation towards corpus as it could, totally ignoring the responsibility of taking any steps towards achieving its main object of constructing school/college for imparting education. On the contrary, on examining the income and expenditure statement of the society, placed on record it appears that in the years ending on 31-3-2006, 31-3-2007 and 31-3-2008. the society has merely incurred an expenditure of Rs. 9,613, Rs. 8,301 and Rs. 11,720 respectively on office maintenance, printing and stationery, travelling and conveyance etc., but has not spent a single penny for achieving its goal of constructing school/college for imparting education to students

5. Giving thoughtful consideration to the matter on record, it can be observed from the grounds of appeal that appellant claims to have been allotted land for construction of school building and that the sanction of building plan is pending. Thus, presently no educational activities are going on. The institution was granted registration under section 12A on 9-10-1996 but except

procuring land the appellant has not even started the construction activity of the building of school/college where it could impart education to students to achieve the main object of the society.

6. The Bench is of considered view that the tax authorities are within their jurisdiction to examine and construe the real purpose of the appellant seeking exemption, in context to its on going and running activities. The appellant society may have an object in its Memorandum of Association or Articles of Association but it seems that in spite of getting registration u/s 12A on 09.10.1996 the appellant has not even started construction activity of the building for school. Their appears to be no apparent error in the findings recorded by the Ld. Tax Authority.

7. There is no substance in appeal. **The same is dismissed.**

**Order pronounced in open court on conclusion of hearing today i.e 28<sup>th</sup> day of April, 2022.**

Sd/-

**(R.K.PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

Date:- 28.04.2022

**\*Binita, Sr.P.S\***

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**