

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI RATHOD KAMLESH JAYANTBHAI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 31/RPR/2019

निर्धारण वर्ष / Assessment Year : 2018-19

Dignity Education Society  
Lunawat Bhawan, Station Road,  
Raipur (C.G)  
PAN : AABTD0634J

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Commissioner of Income-tax (Exemption)  
Income Tax Office, II, III & IV Floors,  
Metro Walk Building, E-5, Arera Colony,  
Bittan Market, Bhopal (M.P) 462016

.....प्रत्यर्थी / Respondent

Assessee by : Shri R. B. Doshi

Revenue by : Shri P. K. Mishra

सुनवाई की तारीख / Date of Hearing : 07.06.2022

घोषणा की तारीख / Date of Pronouncement : 09.06.2022

**आदेश / ORDER****PER RATHOD KAMLESH JAYANTBHAI, AM:**

This appeal is filed by the assessee aggrieved from the order of the Commissioner of Income Tax (Exemption), Bhopal [ Here in after referred as Ld. CIT(E)] for the assessment year 2018-19 dated 26.12.2018 denying exemption under section 80G of the Income Tax Act, 1961 [ here in after referred to as "Act" ] .

2. The only issue assailed by the assessee in this appeal is on account of an order passed by Ld. CIT(E) denying approval of u/s 80G of the Income Tax Act. The relevant facts culled out from the order of Ld. CIT(E) is as under:-

The assessee filed an application for exemption 80G of the Act in form No. 10G on 28.06.2018. In order to verify the object and activities of the applicant and to ascertain the fulfilment of conditions mentioned u/s 80G, the applicant was given an opportunity of being heard by issue a notice dated 31.10.2018 fixing the hearing on 06.12.2018. In response, the assessee filed written submission and after going through the written submission the following deficiencies are noticed:-

1. *No. Justification has been furnished to seek exemption u/s 80G even though the assessee Society is only engaged in educational activities and not*

*involved in any other activities and sufficient fees are charged from students and Society has also generated huge surplus income, year after year.*

3. The assessee was vide e-mail dated 06/12/2018 asked to clarify/explain the above observations/deficiencies notices dated 12.12.2018. In response to above nothing has been heard from the assessee till date of passing of order by the Id. CIT(E). The Id. CIT(E) further observed that Id. JCIT and Assessing Officer vide report dated 04.12.2018 has also not recommended the case for approval u/s 80G of the Income Tax Act, 1961 on account of the following reasons.

- (i) *The Society runs a college in the name of Dignity College of Architecture. The Society also generating surplus out of fees charged to students for providing education.*
- (ii) *The society is not involved in any other activities on mentioned in application Form 10G.*

4. Further from the report of Income Tax Inspector and Assessing Officer, it has been observed that the society is not carrying out any other activities except running of Dignity College of Architecture. During the spot verification by the Income Tax Inspector, he found several discrepancies, i.e. no display of sign board of the society's office. The Income Tax Inspector had also visited the college and as per his report dated 30.11.2018, when he asked about the Audited accounts for the Financial Year 2017-18, Shri Pramod Lunawat, the Director of the

college expressed his inability to produce and stated that the Audited report has not been prepared. In view of the above findings the JCIT and AO they have not recommended the case to grant approval u/s 80G of the Act.

5. The Id. CIT(E) has observed that details produced by the society reveals that society is charging sufficient fees from the students and also generating sufficient cash surplus as observed from the audited accounts for the Financial Years 2014-15, 2015-16 & 2016-17. In the terms of the above observations, the Id. CIT(E) has not granted approval to the society u/s 80G of the Act.

6. Aggrieved from the said order of the Id. CIT(E), the assessee is preferred in appeal before us and has raised the following grounds of appeal :-

*“1. That learned CIT erred in rejecting application for grant of approval u/s 80G of the Income-tax Act, 1961 of the society without considering the facts and circumstances of the case properly and judicially and without properly appreciating the materials furnished before him to prove that society is genuine and is engaged in charitable activities.*

*2. The appellant reserves the right to add, amend, or alter any ground or grounds of appeal at the time of hearing.”*

7. During the course of hearing, the Id. AR appearing on behalf of the assessee submitted that the assessee trust is already accorded an approval u/s 12AA of the Income Tax Act vide No. registration number ITBA/EXM/S//12AA/2016-17/1000438830(1) dated 21/10/2016.

8. The Id. AR of the assessee also submitted that merely there is no sign board and inability of Director of Society to submit the audit report and the surplus accumulated by the assessee cannot be sufficient ground for rejection for approval u/s 80G of the Act. Since the assessee trust is already fulfilling all the requirement of section 12AA of the act and enjoying the benefit of section 12AA of the Act.

9. The reason placed while rejecting approval u/s. 80(G) of the Act are not sufficient to deny the recognition. Otherwise, the assessee trust is fulfilling all the conditions for registration under section 80(G) of the Act. The reasons based on which the recognition denied are not in accordance with the law. The Id. AR also produced before us the assessment order for Assessment Year 2016-17 wherein the Id. AO has granted benefit of registration u/s 12AA and there is no such adverse finding in the assessment order.

10. The Id. AR of the assessee submitted a copy of the decision of the Hon'ble Punjab and Haryana High Court in the case of CIT Vs. Rajmala Education Society [ 65 DTR 307 ] held that merely because there are some surplus with the respondent, this should not be a ground to deny the registration under section 80G(5)(vi) of the Act.

11. The Id. AR appeared on behalf of the assessee trust also placed before us the decision of the Co-ordinate Bench of this Tribunal wherein the Tribunal has observed that when the Id. CIT(E) has granted registration u/s 12AA after examination genuineness of activities of trust and the registration granted has not been revoked or cancelled than it is not proper for Id. CIT(E) to reject the application of trust for benefit of exemption u/s 80G by holding that the activities of the trust were not found eligible for approval u/s 80G of the Act. The relevant finding of the Co-ordinate Bench decision relied upon by the Id. AR is reproduced hereinbelow.

*"6. We have heard the rival submissions and perused the material available on record. The issue in present grounds is with respect to rejection of application u/s. 80G of the Act. Before us, the Ld. A.R. has submitted that assessee has been granted registration u/s. 12AA of the Act and the registration continues till date and the aforesaid registration has not been cancelled by the Commissioner of Income Tax. The aforesaid contention of the Ld. A.R. has not been controverted by the Revenue. We find that the Agra Bench of the Tribunal in the case of Dr. Gyanendra Goel Foundation Vs.*

*Commissioner of Income Tax (supra) after relying on the decision of Hon'ble Gujarat High Court in the case of Hiralal Bhagwati Vs. Commissioner of Income Tax (supra) in similar circumstance has held that when the Commissioner of Income Tax has granted registration u/s. 12AA after examining genuineness of activities of Trust, and the registration granted has not been revoked or cancelled then it is not proper for Commissioner of Income Tax to reject application of Trust for benefit of exemption u/s. 80G by holding that the activities of the Trust were not genuine.*

*7. Before us, the Revenue has not pointed out any contrary binding decision nor has placed any material on record to demonstrate that the aforesaid decision of Agra Bench of Tribunal has been set aside by the higher judicial forum. We are therefore, following the decision of Agra Bench of Tribunal and for similar reasons hold that in the present case the Commissioner of Income Tax was not justified in rejecting the application of assessee. We therefore set aside the order of LD. CIT and direct the granting of approval to assessee u/s. 80G of the Act. Thus the grounds of the assessee are allowed."*

12. The decision of Co-ordinate Bench where the facts are similar and the Id. DR did not object to any of the argument raised by the Id. AR of the assessee and he has merely relied upon the order of Id. CIT(E) and also heavily relied upon the observations of the Inspector Income Tax, assessing officer and JCIT while giving findings to the Id. CIT(E).

13. We have heard both the parties, perused materials available on record. The order of the Co-ordinate Bench and arguments of Id. AR of the assessee we hold that the assessee is eligible for approval of 80G of the Act since their 12AA registration is granted and continue. Even the assessment proceedings for A. Y. 2016-17 completed with out any

adverse observation on the issue and the activities of the trust are in accordance with the condition prescribed. Therefore, following the decision of Co-ordinate Bench. We set aside the order of Id. CIT(E) and direct Id. CIT(E) to grant an approval to the assessee u/s 80G of the Act. Thus, the grounds of appeal raised by the assessee is allowed.

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

Order pronounced in open court on 9<sup>th</sup> June, 2022.

Sd/-  
**RAVISH SOOD**  
JUDICIAL MEMBER

Sd/-  
**RATHOD KAMLESH JAYANTBHAI**  
ACCOUNTANT MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 9<sup>th</sup> June, 2022  
Ganesh Kumar

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G)
4. The Pr. CIT-1, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on		Sr.PS/PS
2	Draft placed before author		Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		