

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

[CONDUCTED THROUGH VIRTUAL COURT]

**BEFORE: SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

ITA No. 77/Ind/2021

Param Social Welfare and Development Society, 31, Nutan Nagar, Khargone-451001 PAN: AAFAP6689N Madhya Pradesh (Appellant)	Vs	Commissioner of Income Tax(Exemption), Bhopal (Respondent)
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Assessee by: Ms. Nisha Lohoti, A.R.
Revenue by: None

Date of hearing : 30-08-2022
Date of pronouncement : 22-11-2022

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

This assessee's appeal arises from order of the CIT(Exemption), Bhopal dated 12-02-2021, in proceedings under section 80G(5)(vi) of the Income Tax Act, 1961; in short "the Act".

2. The assessee has raised the following grounds of appeal:-

“1. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in rejecting the application made u/s 80G(5) which is contrary to the material on record and provisions of the Act, unjust and bad in law.

2. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in not specifically stating which of the conditions of section 80G(5)(i) to (v) are not fulfilled by the applicant

3. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in stating that applicant had partly complied to the questionnaire dated 08.10.2020 and 03.11.2020, more particularly when 'response acknowledgement' are available for the submissions made in compliance to the said notices

4. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in holding that the annual accounts as incomplete, more particularly by taking a cursory glance over the audited financial statements

5. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in stating that no true and correct books of accounts were filed and treated the annual accounts incomplete, more particularly when the assessee had submitted audited financial statements.

6. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in holding that applicant cannot be considered to be engaged in any genuine activities under rule 11AA(2) of the Income Tax Rule, 1962.

7. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in traveling beyond the requirement of rule 11AA(4) which required Ld. CIT(Exemption), Bhopal to satisfy himself only about the genuineness of the activities of the applicant.

8. On the facts and circumstances of the case and NA applicable law, Ld. CIT(Exemption), Bhopal erred in not complying with the rule 11AA(4) of the Income Tax Rules, 1963 wherein Ld. CIT(Exemption), Bhopal is required to examine only the genuineness of the activities of the applicant.

9. On the facts and circumstances of the case and NA applicable law, Ld. CIT(Exemption), Bhopal erred in not giving reasonable opportunity of being heard to the applicant before rejecting the application for approval u/s 80G

10. On the facts and circumstances of the case and applicable law, Ld. CIT(Exemption), Bhopal erred in not considering the submissions and documentary evidences placed on record in response to the various notices issued in proper perspective.

11. The appellant craves leave to add, amend, alter or otherwise raise any other ground of appeal.”

3. The brief facts of the case are that the assessee is a society duly registered under the MP Societies Registration Act, 1973. The assessee filed form 10A on 07-01-2020 seeking registration under section 12A of the Act. The assessee is imparting education as its main object. The gross receipt of the assessee is less than ₹ 1 crore and hence it is covered by the provisions of section 10(23C) of the Act. The registration under the 12A of the Act has been granted to the assessee society in the due course. The object of the society is imparting education, which it is doing through two educational institutions namely a) Gyankunj International College of Management and b) Gyankunj International School. The assessee filed form 10G on 30-06-2020 seeking approval under section 80G(5)(vi) of the Act. Subsequently, the assessee received two notices dated the 08-10-2020 and 03-11-2020, requiring the assessee to furnish documents/clarification/information. In response to these notices, the assessee e-filed two responses, which were taken on record.

4. The Ld. CIT(Exemptions) however dismissed the assessee's application with the following observations:

“Param Social Welfare and Development Society applied for approval under u/s 80G in the prescribed Form No. 80 G on 30.06.2020.

2. With reference to the above, so as to ascertain the genuineness of the objects and activities of the society, initial notice was issued on 08.10.2020. Subsequent notice dt. 03.11.2020 was issued; but only part compliance was made as the applicant did not submit the details in accordance with the questionnaire sent u/s 80G of the IT Act read with Rule 11AA.

3. A cursory glance over the last accounts submitted for the FY 2017-18 to F.Y.2019-20. It appears that huge Unsecured Loans were shown. No True and Correct Books of Accounts for society filed in order to satisfy itself about the genuineness of the activities of such fund or trust or institution. Thus, the true and correct books of accounts could not be ascertained and, to this extent the annual account is treated as incomplete.

4. In the light of the above discussion, it is held that the applicant cannot be considered to be engaged in any genuine activities as required vide Rule 11AA(2)(ii) of the IT Rule 1962 and provisions of section 80G of the IT Act, and accordingly, not being satisfied, the approval u/s 80G is hereby refused.”

5. The assessee is in appeal before us against the order passed by Ld. CIT(Exemptions) dismissing the assessee's application for grant of approval under section 80G(5)(vi) of the Act. The counsel for the assessee argued before us that the Ld. CIT(Exemptions) has passed a cryptic order, dismissing the assessee's application and has not discussed as to what conditions have not been satisfied by the assessee. The counsel for the assessee further submitted that the assessee has placed on record all the relevant information sought for by Ld. CIT(Exemptions), however, the same was not discussed in the order passed dismissing the assessee's application. The assessee drew our attention to pages 1-2 of Paper-Book (notice issued by Ld. CIT(Exemptions)) and the assessee's detailed response filed on 04-11-2020 at pages 03-10 of paper book. Further, the counsel for the assessee drew our attention to pages 89-90 of the paper book, which is the second

notice issued by Ld. CIT(Exemptions) and the response filed by the assessee at pages 93-98 of the paper book. The counsel submitted that the main grievance is that the Ld. CIT(Exemptions) did not consider the submissions placed on record by the assessee. The counsel for the assessee submitted that there are in total six conditions which need to be satisfied for granting registration under section 80G(5)(vi) of the Act and all such conditions have been satisfied by the assessee. Further, Ld. CIT(Exemptions) has not pointed out which conditions for grant of registration under section 80G(5)(vi) of the Act have not been satisfied by the assessee, in the instant set of facts.

6. In response, DR relied upon the observations made by Ld. CIT(Exemptions) in the order dismissing the assessee's application, for granting registration under section 80G(5)(vi) of the Act.

7. We have heard the rival contentions and perused the material on record. We observe that Ld. CIT(Exemptions) has passed a very brief order in which he has not discussed the details filed by the assessee in its application and has also not discussed as to why in the instant set of facts the assessee is not eligible for grant of registration under section 80G(5)(vi) of the Act. The use of the words "cursory glance over the accounts" and the words that "it appears that huge unsecured loans are shown" is also indicative that Ld. CIT(Exemptions) did not give a thoughtful consideration to the facts on record and details furnished by the assessee. Therefore, in the interests of justice, we are hereby setting aside the matter to the file of Ld. CIT(Exemptions) to hear the matter afresh after giving due opportunity to the assessee to present its case on merits.

7.1 Accordingly, the case is being set aside the file of Ld. CIT(Exemptions), with the above directions.

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

Order pronounced in the open court on 22 -11-2022

Sd/-

(B.M. BIYANI)

ACCOUNTANT MEMBER

Ahmedabad : Dated 22/11/2022

Sd/-

(SIDHHARTHA NAUTIYAL)

JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Sr. Private Secretary,
Income Tax Appellate Tribunal,
Indore

Strengthened preparation & delivery of orders in the ITAT	
1) Date of dictation	21 /11/2022 formatting and reproduction
2) Date on which the typed draft is placed before the Dictating Member & Other Member	21/11/2022
3) Date on which the approved draft comes to the Sr. P.S./P.S.	/11/2022
4) Date on which the fair order is placed before the Dictating Member for pronouncement	/11/2022
5) Date on which the fair order comes back to the Sr. P.S./P.S.	/11/2022
6) Date on which the file goes to the Bench Clerk	/11/2022
7) Date on which the file goes the Head Clerk	
8) Date on which the file goes to the Assistant Registrar for signature on the order	
9) Date of Dispatch of the order	