



॥ आयकर अपीलीय न्यायाधिकरण, रायपुर न्यायपीठ, रायपुर में ॥

(Through Virtual Hearing)



IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, AT RAIPUR
BEFORE HON'BLE SHRI RAVISH SOOD, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No.185/RPR/2019

निर्धारण वर्ष / Assessment Year : 2011-2012

Shree Prahalad Ahuja Foundation,

Saikunj, Kali Mata Mandir Road,

Civil Line, Raipur (C.G.)

PAN:AAFAS0793L

..... अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax Officer

Exemption, Bhopal (C.G.)

.....प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : None for the Assessee

Revenue by : Shri Debashish Lahiri

सुनवाई की तारीख / Date of conclusive Hearing : 10/11/2022

घोषणा की तारीख / Date of Pronouncement : 26/12/2022

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

This appeal challenges the order of rejection for grant of approval for 80G status, passed by Commissioner of Income Tax (Exemption), Bhopal [for short "**CIT(E)**"] dt. 30/07/2019 u/s 80G(5)(vi) of the Income-tax Act, 1961 [for short "**the Act**"] for the reasons of non-compliance with the requirement sought.



2. The grounds of appeal as raised in the memorandum of appeal are;

“1. That the order of the Commissioner of Income (Exemption) under section 80G(5)(vi) denying grant of approval is bad in law and invalid.

2. That the Commissioner of Income (Exemption) is grossly erred in law and on facts in not granting approval under section 80G of the Income Tax Act to the appellant society without properly appreciating the facts in its proper perspective.

3. That the Commissioner of Income (Exemption) has erred in law and on facts in rejecting the application in form no 10G for grant approval under section 80G(5) of the Income Tax Act without appreciating the fact that the query letter dated 19.06.2019 was duly responded by email on 23.06.2019 but the CIT(E) went to intimate that the attachments were not getting downloaded only on 29.06.2019.

4. On the facts and circumstance of the case, the appellant society ought to have been granted registration/approval under section 80G of the Income Tax Act, 1961.

5. That any other relief/deduction which the Hon'ble Tribunal may deem fit be granted to the appellant.

6. That the appellant craves, leave to urge, add, amend, alter, enlarge, modify, substitute and delete any of the ground of grounds and to adduce fresh evidence at the time of hearing of the appeal.”



3. Before coming to facts, its apt to voice that, the grounds raised in the present appeal are inconsonance with rule 8 of Income Tax Appellate Tribunal Rules, 1963 [for short **"ITAT Rules"**], however for the purpose of adjudication, it shall suffice to articulate that, the sole & substantive ground is directed against the rejection of grant of approval sought u/s 80G of the Act.

4. Briefly stated the facts borne out of the records are;

4.1 The appellant filed an application in Form No 10G on 21/01/2019 u/s 12AA seeking the grant of approval for 80G before the Ld. CIT(E), wherein in-order to verify the object, activities and to ascertain the fulfilment of condition laid in section 12AA, the appellant was put to first notice dt. 19/0/2019 thereby calling upon the compliance, this remained unresponded by the appellant.

4.2 Following the principle of natural justice, further notice dt. 01/07/2019 was served upon the



appellant reiterating the requirement in connection with grant of approval, however on the request the Ld. CIT(E) accorded extended time to comply therewith by 23/07/2019.

4.3 The appellant's part submission made on 23/07/2019 failed to comply with the requirement so as to enable the Ld. CIT(E) to verify the object and the activities of the appellant and the fulfilment of conditions laid in section 12AA of the Act, consequently, the Ld. CIT(E) saddled with time-barring proceeding rejected the grant of approval by an ex-parte order.

4.4 Aggrieved by the aforesaid rejection of grant of approval, the appellant is in appeal before us on the grounds assailed at para 2 hereinbefore.

5. When the matter called up for hearing, none represented the assessee, mindful to the conduct of the appellant showing no appearance on **many** occasions, we in the interest of justice proceeded to



adjudicate the matters following rule 24 of the **ITAT-Rules**, which empowers this Tribunal to decide the appeal filed by the appellant ex-parte on merits where the appellant does not appear in person or through an authorised representative and the same is done placing on record a no-objection from the respondent revenue. It is needless to mention further that, the proviso to the said rule carves out an exception by empowering the Tribunal to recall the **ex-parte** order, if the appellant appears afterwards and **satisfies** placing evidential material before the Tribunal that, there was **sufficient cause for his non-appearance** when the appeal was called for hearing and in the event of failure to substantiate the non-appearance, the recall exercise dies out.

6. We have heard the rival contentions of both the parties; and subject to the provisions of rule 18 of **"ITAT Rules"**, perused the material placed on record, case laws relied upon by the appellant as well the respondent and duly considered the facts of the case



in the light of settled legal position forewarned to either parties.

7. The facts of the case are that the appellant is a registered society which engaged in charitable activities and applied for grant of approval u/s 80G of the Income Tax Act. Considering that there was no adverse material against the appellant to come to the conclusion that it was not a charitable institution or organisation and, therefore, it was allowed a registration u/s 12A of the Act and as of today the appellant stands registered as a charitable institution u/s 12A of the Act. However the appellant in-spite of reasonable opportunity failed to comply with the necessary direction of the Ld. CIT(E) which ultimately laid to rejection of application filed for grant of 80G of the Act on technical reasons.

8. In this context, the Tribunal makes a note that, the principle of **“Audi alteram partem”** is the basic concept of natural justice, and the expression implies that a person must be given an opportunity to defend



himself, and principle is a sine qua non of every civilized society. The right to notice, right to present case and evidence, right to rebut adverse evidence, right to cross-examination, right to legal representation, disclosure of evidence to party, report of inquiry to be shown to the other party and reasoned decisions or speaking orders. The Hon'ble Supreme Court in its landmark decision rendered in **"Maneka Gandhi Vs UOI"** reported in AIR 1978 SC 597 has laid down that, the rule of fair hearing is necessary before passing any order, the **opportunity of being heard should be real, reasonable and effective and same should not be for namesake**, it should not be a paper opportunity, the doctrine of natural justice is a facet of fair play in action and no person shall be saddled with a liability without being heard.

9. In the extant case, the submission made by the appellant on 23/07/2019 did not productively comply with the requirements due to technical issues with the system which has been duly acknowledged by the Ld.



CIT(E), hence for the reason, we without commenting on the merits of the case, deem fit to remand back the matter to the file of Ld. CIT(E) for according one more effective opportunity to the appellant but with a direction that, the appellant shall comply therewith without seeking any unreasoned adjournment.

10. Resultantly, the appeal of the appellant is ALLOWED FOR STATISTICAL PURPOSE in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this MONDAY 26th Day of December, 2022.

-S/d-

**RAVISH SOOD
JUDICIAL MEMBER**

-S/d-

**G. D. PADMAHALI
ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 26th Day of December, 2022.

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-II, Raipur (C.G.-India)
4. The CIT(A)-II, Raipur (C.G.-India)
5. DR, ITAT, Raipur Bench, Raipur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / By Order,
वरिष्ठनिजीसचिव / Sr. Private Secretary
आयकरअपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.