

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, JUDICIAL MEMBER  
AND  
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

<b>ITA No. 1072/Bang/2022</b>
<b>Assessment Year : NA</b>

M/s. Prathibhodaya, Opposite Police Station Honnavar, Karwar – 581 334. <b>PAN: AADTP3292N</b>	<b>Vs.</b>	The Commissioner of Income-tax (Exemptions), Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Ms. Jinita Chatterjee, Advocate
Revenue by	:	Ms. Neera Malhotra, CIT-DR

Date of Hearing	:	18-01-2023
Date of Pronouncement	:	18-01-2023

**ORDER**

**PER PADMAVATHY S, ACCOUNTANT MEMBER**

This appeal is against the order of the commissioner of Income Tax (Exemptions) (CIT(E)) dated 29.09.2022 rejecting the application in Form 10AB for approval u/s.80G of the Income Tax Act (the Act)

2. The assessee raised the following grounds of appeal

- i. On the facts and in the circumstances of the case, the learned CIT(E) erred in denying the approval under Sec.80G of the Act.
- ii. The Appellant having registered under Section 12AA of the Act and have also furnished all the particulars called for by the learned CIT(E), the required benefit under Section 80G of the Act as prayed for ought to have been given.

- iii. The learned CIT(E) erred in holding that there was no response to the hearing notices without verifying his own records since the Appellant had filed all the particulars as required by the CIT(E) vide its communication dated 27.07.2022 and 30.08.2022
- iv. The learned CIT(E) ought to have appreciated that all the details called for have been furnished and having failed to take notice of the same, he erred in holding that the Appellant had not responded to the notices to justify the denial of approval under Section 80G of the Act.
- v. On the facts, the learned CIT(E) ought to have granted approval under Section 80G of the Act as prayed for by the Appellant.
- vi. For these and such other grounds that may be urged at the time of hearing, the Appellant prays that the appeal may be allowed.

3. The assessee made an application in Form 10AB for approval u/s.80G of the Act before the CIT(E). The said application came to be rejected by the CIT(E) for the reason that there was no response to the hearing notices issued to the assessee and that the genuineness of the activities of the assessee and the fulfilment of the conditions laid down in clause (i) to (v) of section 80G(5) of the Act was not demonstrated by the assessee. Aggrieved by the order of the CIT(E) the assessee is in appeal before the Tribunal.

4. The ld AR submitted that the CIT(E) issued two notices dated 13.07.2022 and 26.08.2022 and the assessee has filed the various details called for in the said notices on 29.07.2022 and 30.08.2022 (page 1 to 74 of paper book). The ld AR also submitted that the assessee has filed a letter stating the inability to attend the personal hearing 05.09.2022. The ld AR submitted that the CIT(E) did not consider any of the details submitted and has rejected the application by stating that the assessee had not responded.

5. The ld DR supported the order of the CIT(E)

6. We heard the rival submissions and perused the material on record. From the perusal of the records, we notice that the assessee has filed several details

called for by the CIT(E) with regard to the application for approval u/s.80G such as the 12A registration certificate, Order granting provisional registration u/s.80G, Trust deed etc. It is also noticed that the assessee vide letter dated 30.08.2022 has submitted the inability to attend personal hearing and had requested the CIT(E) to consider the various documents submitted for the purpose of approval u/s.80G. However the CIT(E) without examining any of the documents and details submitted by the assessee, rejected the application stating that there was no response to from the assessee and that the genuineness of the activities of the assessee and the fulfilment of the conditions laid down was not demonstrated by the assessee. In our considered view the rejection of application by stating that the assessee has not responded when the assessee has in fact responded by submitting the details called for and without examining the details submitted is not correct. Therefore in the interest of justice we remit this issue back to the CIT(E) with a direction to examine the details submitted and provide approval in accordance with law. The assessee is directed to cooperate with proceedings and submit the required details as may be called for by the CIT(E). It is ordered accordingly.

7. In result the appeal is allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> January, 2023.

Sd/-  
(GEORGE GEORGE K)  
Judicial Member

Sd/-  
(PADMAVATHY S)  
Accountant Member

Bangalore,  
Dated, the 18<sup>th</sup> January, 2023.  
/MS /

**Copy to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore