

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.676/Del/2018
[Assessment Year : N.A.]**

Baba Naya Ram Dass Gaushala, VPO-Manesar, Gurgaon, Haryana. PAN-AABAB1337M	vs	CIT(E), Chandigarh.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri P.Praveen Sidharth, CIT DR	
Date of Hearing	13.04.2023	
Date of Pronouncement	20.04.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year NIL is directed against the order of Ld. CIT(Exemption), Chandigarh dated 30.11.2017.

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

1. *"On the facts and circumstances of the case, the order passed by Learned Commissioner of Income Tax (Exemptions) rejecting the application of the assessee for approval u/s 80G is bad both in the eye of law and on facts.*
2. *On the facts and circumstances of the case, the Ld. CIT(E) has erred both on facts and in law in passing the order rejecting the application for approval under section 80G of the Act, without giving assessee an opportunity of being heard in violation of principle of natural justice.*
3. *On the facts and circumstances of the case, the order passed by Id. CIT(E) is barred by limitation having been passed beyond the statutory period prescribed in the Act.*

4. *On the facts and circumstances of the case, the order passed by Id. CIT(E) are in violation of the statutory conditions of the Act and the procedure prescribed under the law and as such the same is bad in the eye of law and liable to be quashed.*
 5. *On the facts and circumstances of the case, Ld. CIT(E) has erred both on facts and in law in rejecting the application of the assessee for approval u/s 80G of the act, despite the assessee fulfilling all the conditions as provided u/s 80G of the Act.*
 6. *On the, facts and circumstances of the case, Ld. CIT(E) has erred in rejecting the application of the assessee on the basis of extraneous considerations, which are not relevant at the stage of granting approval u/s 80G of the Act.*
 7. *On the facts and circumstances of the case, Ld. CIT(E) has erred both on facts and in law in drawing adverse inference despite the assessee bringing on record all evidences and explanations in respect of the various queries raised by him.*
 8. *On the facts and circumstances of the case, Ld.CIT(E) has erred both on facts and in law in drawing adverse inference misinterpreting the financials of the assessee.*
 9. *The appellant craves leave to add, amend or alter any of the grounds of appeal.”*
3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the record that neither any one has been attending the proceedings since 14.07.2021 nor any request has been filed for adjournment of hearing of appeal on behalf of the assessee. Under these facts, the appeal is taken up for hearing in the absence of the assessee and is being disposed off on the basis of material available on record.
4. Facts giving rise to the present appeal are that in this case, the assessee e-filed an application on 30.05.2017 seeking approval u/s 80G of the Income Tax

Act, 1961 (“the Act”). The application of the assessee was rejected by Ld.CIT(Exemption) by making various observations and drawing adverse conclusion about the accounts of assessee society.

5. Aggrieved against the order of Ld.CIT(Exemption), the assessee has preferred the instant appeal before the Tribunal.

6. Apropos to Grounds of appeal, Ld. CIT DR submitted that Ld.CIT(Exemption) has given categorical finding on fact regarding activity of the society. He drew our attention to the impugned order, stating that Ld.CIT(Exemption) has given a categorical finding that there were two different donation accounts for the months of February and March, 2017 and other months, they were found to be manipulated. He submitted that since the assessee society had manipulated its accounts therefore, Ld.CIT(Exemption) was justified in rejecting the application. He submitted that the assessee did not approach with clean hands.

7. We have heard Ld. CIT DR and perused the material available on record. We find that vide impugned order, Ld.CIT(Exemption) has made adverse findings against the assessee society. The relevant contents thereof, are reproduced as under:-

5. *“.....From the above two different donation accounts submitted by the applicant, it is observed that the figures of donations for the months of February and March, 2017 remained the same and donations pertaining to rest of the months i.e. from April, 2016 to January, 2016 have been manipulated to reply the query accordingly. This contention of applicant is certainly not acceptable it clearly leads to conclude that applicant is manipulating with the donations received.*

The issue further get impinged by the fact that the donations are received in cash and whole of the same is not routed through banking channel. In light of the above, this also leads to conclude that the accounts of the applicant are not reliable. It is pertinent to mention that the applicant is managing its activities on cash basis which itself corroborates that the activities of the applicant do not stand the scrutiny of genuineness.

6. *It is also evident that Rs. 9.27 Lakhs have been spent on salaries. In the absence of any details of staff to whom the salary is being paid remains unverifiable. It gets exacerbated by the fact that out of the donations received in January 2017, only a sum of Rs. 11.44 lakhs has been routed through bank. This contention of the applicant clearly leads to the conclusion that the applicant is in practice of keeping away its funds from the banking channel and indulging predominantly in cash transactions that are not amenable to proper verifications. Further, it is pertinent to mention that the quantum of bank balances an; increasing through the accounting period ending on March 2016 to March 2017, the tabulated extract of the same is under:-*

<i>F.Y.</i>	<i>2014-15</i>	<i>2015-16</i>
<i>Bank balances</i>	<i>4,02,886/-</i>	<i>11,55,051/-</i>

7. *The purpose of the legislature to include this section in the Act is to promote and encourage people for making donations to societies/ trust which otherwise lack funds for performing charitable activities. On the contrary the applicant society has accumulated large funds in the form of bank balance that they are not willing to utilize for expansion. Further, the land which is being utilized by the applicant is a public land over which applicant has not legal force. The contention that the same is being given by the Sarpanch or Panchayat in no sense makes it clear whether the title over the land vests with the Sarpanch /Panchayat, to that extent applicant failed to establish the income which it sought to be exempted from the vested property.*

8. *Further the applicant has not elaborated on (a) the target group from whom the donation would be sought/received, (b) the exact contours of the expansion they wish to undertake and the quantum of finances that would be necessary and (c) the list of people who have shown the inclination to donate to the society.*
9. *Keeping in view all of above it is safe to conclude that both the activities of the applicant are not transparent and the applicant has failed to discharge its onus to prove its claim for approval u/s 80G. In the light of the above, I have no option but to proceed on merits and deny the approval to the applicant u/s 80G of Income Tax Act, 1961.”*

8. The aforesaid findings of Ld.CIT(Exemption) is not rebutted by the assessee by placing any contrary material on record. Ld.CIT(Exemption) has given a specific finding regarding accounts of the assessee society which gives a distorted picture and does not inspire confidence about the genuineness of the activity of the assessee society. The assessee society is under legal obligation to satisfy the Ld.CIT(Exemption) about the genuineness of its activity. The Ld.CIT(Exemption) has given finding regarding two sets of accounts related to donation being maintained by the assessee. In the absence of any rebuttal by the assessee society, we do not see any reason to interfere in the findings of authorities below, the same is hereby affirmed. Grounds raised by the assessee in this appeal are hence, dismissed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 20th April, 2023.

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI