

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.2053/Mum/2023
(Assessment Year :2023-24)**

M/s. Olive Development Foundation 1 st Floor, Matru Smruti Scheme No.6 Plot No.74, Road No.4 Sion – East Mumbai – 400 022	Vs.	CIT (Exemptions) Peddar Road Mumbai
PAN/GIR No.AACCO8115B		
(Appellant)	..	(Respondent)

Assessee by	Shri Anil Sathe
Revenue by	Ms. N.V. Nadkarni
Date of Hearing	12/10/2023
Date of Pronouncement	18/10/2023

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against rejection of support for approval u/s.80G filed u/s.10AB by the ld. CIT (A) (Exemptions), Mumbai.

2. Assessee is a company registered u/s .8 of the Companies Act 2013 and also has been granted registration u/s.12A, since

the activities of the company were towards objects which were charitable in nature. Accordingly, it moved application for approval u/s.80G in Form 10AB and was granted provisional approval on 15/10/2021. Thereafter, as per the relevant procedural mandate, assessee had again applied for approval u/s. 80G in Form 10AB on 24/08/2022. Thereafter, a notice was issued on 30/01/2023 by Ld. CIT (E) in the proceedings u/s. 80 G (5)(iii) of the Act. In response, assessee had submitted various details electronically and also physically on 15/02/2023 and 23/02/2023 respectively. However, the ld. CIT rejected the application after observing as under:-

3. Various details were provided by the assessee vide submission filed in compliance to DIN & Notice No. ITBA/EXM/F/EXM43/2022-23/1048717663(1) dated 14.01.2023 and ITBA/EXM/F/EXM43/2022-23/1049229391(1) dated 30.01.2023. It was observed that the assessee had not furnished details regarding the assessee's share transactions and documentary evidence of the charitable activity carried out by the assessee. Accordingly, a notice was issued to the applicant vide DIN & Notice No. ITBA/EXM/F/EXM43/2022-23/1049909427(1) dated 20.02.2023 requesting the assessee to submit the aforementioned details and to show cause why the application for approval should not be rejected in absence of the same.

4. Though the assessee has made submission on 23.02.2023, the same do not speak about the charitable activities conducted by the trust. The assessee's submission has been carefully perused. However, the documents provided by the assessee do not prove the genuineness of the activities of the trust.

5. Approval under section 80G is to be accorded to the applicant after satisfying oneself of the genuineness of activities and the

compliance of all the conditions mentioned in section 80G(5) clauses (i) to (v) of the Act.

6. In view of the above, this application for grant of approval under section 80G stands rejected.

3. Before us Id. Counsel submitted that the allegation of the Id. CIT that assessee did not furnish the details and documentary evidence of the charitable activity and the share transaction, is incorrect as all these details and documents were not only electronically filed but also filed physically. He submitted that assessee had submitted all the details of the share transactions which assessee had sold and treated it as a corpus to carryout charitable activities and was duly explained with all the documentary evidences. Apart from that, assessee has also filed voluminous details and evidences about the charitable activity carried out by the assessee during the year. He also drew our attention to the documents placed before the Id. CIT (Exemption) which has also been filed before us. From these documents, it was submitted that assessee has not only explained the date-wise details of shares sold but also, when the trust received the shares in the form of donation in the F.Y. 2020-21 and 2021-22 which was valued at an average market rate as on the date shares have been credited in the D-mat account and also the copy of share donation letter which has also been placed in the paper book. He has also given a detail note of charitable activities carried out by the assessee alongwith the proofs of donation given to institutions and students for various charitable

activities. Thus, he submitted that the Id. CIT (Exemptions) has wrongly rejected the application for approval u/s.80G.

4. On the other hand, Id. DR submitted that, let these documents be examined by the Id. CIT (Exemptions) again and matter should be restored back to the file of the Id. CIT (Exemptions), as he has not considered these documents or given any finding on such documents.

5. After considering the facts and material placed on record and also on perusal of the impugned order, we find that Id. CIT (Exemptions) has simply rejected the application on the ground that assessee has not furnished the details regarding share transaction and the documentary evidences of the charitable activity carried out by the assessee. At the face of the record and the documents furnished before him, it is seen that his finding is contrary to the record. The assessee is carrying out charitable activities which are not in dispute and it has also been granted registration u/s.12A. The assessee has also placed note of activity carried out by it in the following manner:-

- to promote, establish, encourage, facilitate, develop, run, maintain hospitals, schools, colleges, nursing institutions, dispensaries, maternity homes, child, welfare centers, women welfare centers, vocational skill development centers, community halls, reading rooms or libraries, old age homes, sanatoriums, hostels and homes
- The benefits of the above will be offered to children, women, orphans, senior citizen, and handicapped persons and for economically weaker sections, lower Income groups and also

other vulnerable sections of society such as Scheduled castes/Scheduled Tribes, Backward Classes, Minorities and senior citizens, physically challenged persons, socially and financially poor and needy people.

- Therefore our emphasis is to provide or make available social welfare services as mention above to specially following sections of society;
 - 1) Urban poor
 - 2) Economically weaker sections
 - 3) Lower Income groups
 - 4) Scheduled castes/Scheduled Tribes, Backward Classes
 - 5) Minorities and senior citizens
 - 6) Physically challenged persons

6. Before us, assessee had placed various documentary evidences wherein it has given donations for various charitable activities which are appearing from pages 11-74. None of these documents have been examined or gone through. From the bare perusal of these documents it is seen that assessee has given donations for various charitable activities and to students for their scholarships and other aids and it is seen that it is genuinely carrying out its activities towards charitable objects. Therefore, it cannot be said that assessee has not filed any evidences for the charitable activities carried out by it. Apart from that, in so far as allegation that assessee has not submitted the details of share transaction is also incorrect, because as pointed out by the Id. Counsel equity shares of Valiant Organics Ltd. were sold and the assessee company / trust has received the shares in the form of donation and the copy of share donation letter has also been placed before us. The entire details of the

shares sold and received by the company towards its corpus for carrying out charitable activities is evident from the record. Thus there is nothing adverse on this point. Under these circumstances and on the basis of material placed before us, we find that it is a fit case for granting approval u/s.80G to the assessee. Accordingly, the order of the ld. CIT (A) is set aside and approval u/s.80G of the Income Tax is granted to the assessee.

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

Order pronounced on 18th October,2023.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER
Mumbai; Dated 18/10/2023
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai