

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH: CHENNAI
श्रीमहावीरसिंह, माननीयउपाध्यक्ष, एवं श्रीमंजूनाथा.जी, माननीय लेखासदस्यकेसमक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANJUNATHA.G, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.662/Chny/2023

Thirumurugan Kalvi Arakkattalai,
8/507, G.N. Garden, Neruperichal,
Pooluvapatti 641 602.

[PAN:AABTT7977L]

Vs. The Commissioner of Income
Tax (Exemption), Aayakar Bhawan –
Annexe Building, No. 121, Mahatma
Gandhi Road, Nungambakkam,
Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri H. Yeshwanth Kumar, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri Nilay Baran Som, CIT
सुनवाई की तारीख/ Date of hearing : 29.11.2023
घोषणा की तारीख /Date of Pronouncement : 29.11.2023

आदेश / O R D E R

PER MANJUNATHA, G., ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Exemption), Chennai, dated 30.03.2023.

2. Brief facts of the case are that the assessee filed an online application on 29.09.2022 in Form No. 10AB under section 80G(5)(iii) of the Income Tax Act, 1961 ["Act" in short] seeking approval under section 80G of the Act. The Id. CIT(E) rejected the application filed by the assessee in Form No. 10AB on the ground that the assessee has

obtained approval under section 10(23C)(vi) of the Act from Principal Commissioner of Income Tax [“PCIT” in short] on 24.09.2021 with the only one object i.e. “Education”. However, the assessee, while applying for approval under section 80G of the Act on 29.09.2022, has added two more objects such as relief to poor and medical relief without any verification or mention in the trust deed. The assessee could not explain this contradiction satisfactorily and therefore, the Id. CIT(E) rejected the application filed by the assessee in Form No. 10AB for approval under section 80G of the Act.

3. Aggrieved by the order of the Id. CIT(E), the assessee is in appeal before the Tribunal.

4. The Id. Counsel for the assessee Shri H. Yeshwanth Kumar, CA, referring to the copy of Trust deed dated 05.04.2007 and copy of amended deed dated 01.12.2015 and submitted that initially the objects of the trust were relief of poor, education and medical relief. But, the assessee-trust has amended the objects by a trust deed dated 01.12.2015, and deleted two objects namely, relief of poor and medical relief and retained only one object namely “Education”. Further, while filing application under section 10(23C)(vi) of the Act, the assessee has

rightly mentioned as main object "Education" as per amended deed dated 01.12.2015. While filing form 10AB under section 80G(5)(iii) of the Act, by inadvertent error, it was mentioned all three objects of trust deed dated 05.04.2007. This anomaly has been brought to the notice of the Id. CIT(E) by filing both trust deeds, but, the Id. CIT(E) rejected the application filed by the assessee. Therefore, the Id. Counsel prayed that the assessee may be given an opportunity to explain before the Id. CIT(E) and requested to set aside the appeal to the file of the Id. CIT(E).

5. On the other hand, the Id. DR Shri Nilay Baran Som, CIT, fairly agreed that to verify the fact in the light of both deeds, the issue may be remitted back to the file of Id. CIT(E) and to decide the issue in accordance with law.

6. We have heard both the sides, perused the materials available on record and gone through the order of the Id. CIT(E). There is no dispute to the fact that the main objects of the assessee as per Trust deed dated 05.04.2007 were relief of poor, education and medical relief. It is also an undisputed fact that the assessee has amended the trust deed dated 01.12.2015 and deleted two objects i.e., relief of poor

and medical relief and retain only one object of "Education". Although, the assessee has amended the main object, but claimed that by an inadvertent error while filing Form No. 10AB, it was wrongly stated the object of the trust was relief of poor, education and medical relief. We find that as per amended deed dated 01.12.2015, the main object is only "Education" as stated in application filed under section 10(23C)(vi) of the Act and in Form No. 10AC issued by the Id. PCIT. It seems that by an inadvertent error, the assessee has referred to all the objects including the objects deleted by way of amended deed dated 01.12.2015. When this fact was brought to the notice of the Id. CIT(E), in our considered opinion, the Id. CIT(E) ought to have considered application filed by the assessee in light of Form No. 10AC issued by the Id. PCIT dated 24.09.2021. Since, the Id. CIT(E) rejected the application of the assessee without considering arguments of the assessee in light of amended deed, we are of the considered opinion that the appeal should go back to the file of the Id. CIT(E). Accordingly, we restore appeal back to the file of the Id. CIT(E) for fresh adjudication in light of various evidences that may be filed by the assessee to justify its case towards seeking approval under section 80G of the Act.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 29th November, 2023 at Chennai.

Sd/-
(MAHAVIR SINGH)
VICE-PRESIDENT

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Chennai, Dated, 29.11.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.