

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.5500/Del/2017

निर्धारणवर्ष/Assessment Year: -

Shri Krishna Pranami Jan Kalyan Trust, C/o M/s RRA TaxIndia, D-28, South Extension, Part-1, New Delhi. PAN No.AAATS3627B	बनाम Vs.	CIT(E), C.R. Building, 5 th Floor, Sector-17E, Chandigarh.
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Assessee by	None
Revenue by	Shri H.K. Choudhary, CIT-DR

सुनवाईकीतारीख/ Date of hearing:	02.11.2023
उद्घोषणाकीतारीख/Pronouncement on	30.01.2024

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Assessee against the order of the Ld.CIT(Exemption), Chandigarh dated 31.07.2017 in denying registration u/s 80G(5)(vi) of the Act.

2. In spite of service of notice through speed post, none appeared on behalf of the assessee. Thus, we dispose of this appeal on hearing the Ld. DR.

3. The assessee filed an application in Form 10G on 02.01.2017 for approval u/s 80G of the Act before the CIT(Exemption), Chandigarh. The Ld. CIT(E) after calling for various information and details as referred to in the order and considering the replies furnished by the assessee denied approval u/s 80G observing as under:

“6. The applicant has received its major income by collecting fee, annual charges etc. and kept claiming depreciation down the years to accumulate large surpluses that have manifested themselves in the shape of FDRs and bank balances. The purpose of legislature to include this section in the Act is to promote and encourage people for making donations to the societies/ trusts which otherwise lack funds for performing charitable activities. On the contrary, the trust has accumulated large funds in the form of FDR and Cash balances that they are not willing to utilize before espousing grounds for seeking donations.

7. Further the applicant has not elaborated on (a) the target group from whom the donation would be sought, (b) the exact contours of the expansion in education they wish to undertake and the quantum of finances that would be necessary, (c) how the expansion would prove beneficial to the general public at large. The judiciary has at various instances frowned upon the prevalence of donations/capitation fees in educational institutions. The Apex Court in Civil Appeal No. 4060 of 2009 (and others) in the case of Modern Dental College and Research Centre and Ors. Versus State of Madhya Pradesh has held that educational institutes should not just focus on making profit but run on no-profit-no-loss basis. The five judge constitution bench held that commercialising of educational sector is not permissible. In the instant case it is clear that the receipts of the applicant are

based on a high fee structure in the schools & educational institutions being run under their- aegis. There is a clear cut link between the receipt and income from property that is claimed as exempt in the case and which has led to creation of development fund to the extent of nearly 8 crores and an asset base of nearly 11 crores. Allowing approval of exemption of donations in such a case would be in contravention of the spirit of the section which is meant for entities that are in need of funds for activities and which have no assured source. This also comes with the possibilities of donations being exempt twice once in the hand of the applicant and the other time in the hands of the donor who in many cases may be the parent of the pupils in the educational institutions or people closely relation to them.

8. The above clearly leads one to conclude that the entity having huge amount of cash balances and FDRs doesn't require donations. The applicant's plea that the trust requires fund for recurring and non-recurring expenditure and the trust fulfils its maximum fund requirement for recurring expenditure from fees collection but for non recurring fund requirement donations is required is not tenable. The non-recurring expenses, as is evident from the finances are mainly on construction of building at Bhiwani and Hansi. Moreover, no evidence to this effect has been adduced in the matter. It is also pertinent to mention that not even a single expenditure that are booked in the Income & Expenditure account corroborates with its charitable claim of funning Gaushala, Aushdhalya, Ashrams, Widow ashram.

9. Given all of the above, it is safe to conclude that the applicant's real purpose of seeking donations, in addition to an already entrenched source of income in the form of receipts that has led to creation of a large asset base in the past, doesn't get established. In the absence of any other cogent rationale forwarded behind claims for 80G approval, I have no option but to deny the request for approval to the applicant u/s 80G of Income Tax Act, 1961.”

4. On careful perusal of the order of the Ld.CIT(E) and the finding that no evidences were furnished by the assessee for incurring non-recurring expenses and construction of building at Bawani & Hansi and also since the assessee has not accounted for any expenditure booked in the income and expenditure account. The Ld. CIT(E) concluded that there is no any cogent rationale behind claims for approval u/s 80G of the Act. The assessee could not rebut any of the finding of the Ld.CIT(E) before us. Therefore, we sustain the order of the Ld.CIT(E) in denying approval u/s 80G of the Act to the assessee trust. Grounds raised by the assessee are rejected.

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

Order pronounced in the open court on 30/01/2024

Sd/-
(G.S. PANNU)
VICE PRESIDENT

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 30/01/2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi