

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, AHMEDABAD

BEFORE MRS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER

ITA No. 420/Ahd/2022  
निर्धारण वर्ष/Assessment Year: 2022-23

Shree Laheswar Mahadev Trust, Maniyari, Chanasma, Patan - 384212 PAN : ABCTS 4296 B	Vs.	Commissioner of Income-tax (Exemptions), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :	Shri Suchit Patel, AR	
Revenue by :	Shri Kamlesh Makwana, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 12.02.2024  
घोषणा की तारीख /Date of Pronouncement: 15.02.2024

**आदेश/ORDER**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the learned Commissioner of Income-tax (Exceptions), Ahmedabad [hereinafter referred to as "Id. CIT(Exemptions)"] dated 28.09.2022 rejecting the application of the assessee seeking approval of the trust under Section 80G(5) of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

2. The assessee has raised following grounds in its appeal:-

*"1. The learned Assessing Officer erred in fact and law in passing rejection order in Form 10AD.*

*2. Learned Assessing Officer has passed rejection order without considering the details submitted by assessee at the time of application of registration u/s 80G(5)"*

3. The brief facts of the case, as culled out from the records, are that assessee-trust made an application on 31.03.2022 in Form No. 10AB under Rule 11AA of the IT Rules, 1962, seeking approval of the trust u/s 80G(5) of the Act. That, thereafter, a notice dated 16.07.2022 was issued by the Id. CIT(Exemptions) asking the assessee-trust to furnish detailed note on the activities actually carried out by the trust as well as certain details/documents as mentioned therein. Since the assessee could not furnish the requisite documents/details as sought for by the Id. CIT(Exemptions), further notices dated 03.08.2022 and 25.08.2022 were issued and served upon the assessee. In response to the said notices, the assessee furnished part details, and on verification of the same, he observed that the assessee was registered with Charity Commissioner on 26.08.2021 and, as noted by him, the assessee seems to have carried out religious activities only. Therefore, a final opportunity was given to the assessee to furnish the required details, by issuing another notice on 25.08.2022 sent through ITBA on the email ID given by the assessee-trust in its online application; however, the assessee neither furnished any details/documents nor sought any adjournment in response to the said notice. Therefore, the application filed by the assessee-trust in Form No.10AB for the approval u/s 80G(5) of the Act was rejected by the Id. CIT(Exemptions) vide order dated 28.09.2022 as the assessee-trust failed to provide any documentary evidence showing genuineness of its activities. Aggrieved by the order of the Id. CIT (Exemptions), the assessee is now in appeal before us.

4. At the outset, learned Counsel for the assessee submitted that, it is an admitted fact that, though in spite of best effort made by the assessee, the entire set of documents could not be gathered during the pendency proceedings before the Id. CIT(Exemptions) and the assessee was, thus, unable to submit the same in order to satisfy the Id. CIT(Exemptions) in regard

to the genuineness of the activities carried out by the assessee-trust. It was also pointed out that the assessee had been denied registration u/s 12A of the Act also which had been carried in appeal before the ITAT who in turn had restored the matter back to the Id.CIT(Exemptions) to reconsider the application of the assessee. Copy of the order of the ITAT in ITA No.419/Ahd/2022 dated 21/07/23 was filed before us. In that view of the matter, he prayed for another opportunity of being heard to the assessee by the Id. CIT(Exemptions) along with the assessee's application seeking registration u/s 12A of the Act and undertook to file the requisite details/documents for approval u/s 80G(5) of the Act. Ld. DR has not raised any serious objection on the request of the Id. Counsel for the assessee, but relied on the order of the Id. CIT(Exemptions).

5. We have heard the rival contentions and perused the material available on record. We find that the application of assessee-trust seeking approval under Section 80G of the Act has been rejected by the Id. CIT (Exemptions) due to reason that assessee did not submit the requisite details, as sought by the Id. CIT(Exemptions), which is required as per the mandatory provisions of the procedure for approval as per 2<sup>nd</sup> proviso to Section 80G(5) of the Act. We have also noted that the assessee's application seeking registration u/s 12A of the Act was also rejected by the Ld.CIT(Exemptions) which matter has been restored back to him for reconsideration by the ITAT vide its order dated 21-07-23. Considering the prayer made by the learned Counsel for the assessee that the assessee is willing to co-operate before the Ld. CIT(Exemptions) and ready to file the requisite documents/evidence before him and further noting the fact that the necessary prerequisite for grant of approval u/s 80G of the Act, being registration u/s 12A of the Act, is pending for adjudication before the Ld.CIT(Exemptions), we deem it fit and proper, in the interests of justice,

to restore this issue to the file of the learned CIT (Exemptions) for considering the application of the assessee-trust u/s. 80G(5) of the Act in view of the undertaking given by the assessee. However, it is clarified that learned CIT(Exemptions) would be at liberty to conduct necessary inquiries as per law before granting approval under Section 80G(5) of the Act.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 15/02/2024 at Ahmedabad.**

**Sd/-**

**(SUCHITRA R. KAMBLE)  
JUDICIAL MEMBER**

Ahmedabad; Dated 15/02/2024

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर ,/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

**Sd/-**

**(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण  
ITAT, Ahmedabad