

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ
**IN THE INCOME TAX APPELLATE TRIBUNAL,
" A " BENCH, AHMEDABAD**

**BEFORE Ms SUCHITRA KAMBLE, JUDICIAL MEMBER
And
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.503/AHD/2023

निर्धारण वर्ष/Asstt. Year: NA

Chitrakut Foundation, 133, Sector 4, Bahuchraji Mandir, Near Vivekanand Nagar, Hathijan, Ahmedabad-384245. PAN: AAEAC7533P	Vs.	The Commissioner of Income Tax (Exemption), Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri M.K Patel, AR
Revenue by :	Shri Akhilendra Pratap Yadaw, CIT DR

सुनवाई की तारीख/**Date of Hearing** : **01/02/2024**

घोषणा की तारीख /**Date of Pronouncement**: **21/02/2024**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Exemption), Ahmedabad, arising in the matter of assessment order passed under s. 80G (5) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year N.A.

2. The only grievance raised by the assessee is that the Ld. CIT(E) erred in rejecting the application for registration applied u/s 80G of the Act.

3. At the outset, it was noticed that there was a delay of 30 days in filing the appeal by the assessee. The assessee to this effect has filed the condonation petition supported by the affidavit and contended that the main trustee who was looking after the accounts/ taxation matter was outstation for long duration. Accordingly, no authorize representative to file the appeal before the ITAT could be appointed. As such, on returning, the main trustee immediately appointed the tax consultant to file the appeal. It was also pointed out that the trust is carrying out charitable activities for the benefit of the public at large and therefore the registration application filed u/s 80G(5) of the Act, should not be rejected due to technical lapses. As per the Ld. AR the assessee has meritorious case and fair chance to succeed. Thus, the appeal filed by the assessee should be admitted and to be adjudicated on merit.

4. On the other hand, the Ld. DR opposed in condoning the delay in filing the appeal by the assessee.

5. We have heard the rival contentions of both the parties and perused the materials available on record. Considering the length of delay and argument of the Ld. AR that the meritorious case should not be dismissed on technical count, we are inclined to condone the delay in filing the appeal by the assessee. As such, the delay is condoned, and we proceed to adjudicate the issue on merit.

5.1 In the present case, the Ld. CIT(E), has rejected the registration application filed by the assessee for approval u/s 80G(5) of the Act, on the reasoning that some of the activities of the trust were religious in nature. Likewise, the assessee has incurred certain expenditure on religious activities amounting to Rs. 39,000/- constituting 20.73% of the total receipt (20.73 percent of 1,88,108). As per the Ld.

CIT(E), the expenditure on religious activities exceeds 5% of the total receipt and therefore the benefit of sub section (5B) of the section 80G of the Act, cannot be granted to the assessee. Thus, the Ld. CIT(E), rejected the application of the assessee filed for approval u/s 80G(5) of the Act.

6. Being aggrieved by the order of the Ld. CIT(E), the assessee is in appeal before us.

7. The Ld. AR before us filed a paper book running from pages 1 to 55 and contended that the assessee has not incurred any expense on religious activity as alleged by the Ld. CIT(E). It was submitted by the Ld. AR that the sum of Rs. 39,000/- has been incurred on educational activities by reimbursing the fees to the students. To justify his stand, the Ld. AR has drawn our attention on the Financials Statements placed on pages 6 to 8 of the paper books.

8. On the other hand, the Ld. DR submitted that the assessee has not furnished the supporting document demonstrating that the sum of Rs. 39,000/- was incurred on the educational activities. The Ld. DR vehemently supported the order of the Ld. CIT(E).

9. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the application for approval u/s 80G(5) of the Act, has been rejected by Ld. CIT(E) on the reasoning that that there were certain activities of the trust were of religious nature and the assessee has incurred the expense of Rs. 39,000/- on the religious activities which is more than the threshold limit specified u/s 80G(5B) of the Act. However, on perusal of the Financial Statement of the assessee, we note that the assessee has shown an expenditure of Rs. 39,000/- under the head educational activities. Likewise, the assessee has also furnished the details demonstrating the application of funds which is placed on pages 19 and 20 of the paper book to

justify that such expenditure represents the expenses towards the reimbursement of the fees of students. Thus, to our understanding the findings of the Ld. CIT(E), that the assessee has incurred expenses on religious activities appears to be contrary to the facts available on record. Therefore, in the interest of justice and fair play, we are inclined to restore the issue to the file of the Ld. CIT(E) for fresh adjudication as per the provision of law. The assessee is also directed to co-operate during the proceedings before the Ld. CIT(E).

10. Before parting, it is pertinent to note that the Ld. AR at the time of hearing has not pointed out any error in the finding of the Ld. CIT(E) with respect to certain activities of the trust as of religious nature which have also been reproduced in his order. Accordingly, we refrain ourselves from adjudicating the same. As such, the Ld. CIT(E) shall decide the issue afresh in the light of the provisions specified u/s 80G(5B) of the Act. Hence, the ground of appeal of the assessee is hereby partly allowed for statistical purposes.

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

Order pronounced in the Court on 21/02/2024 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad; Dated
Manish

(True Copy)
21/02/2024