

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

I.T.A. No.71/Ahd/2023
(Assessment Year: 2022-23)

Adivasi Vikas Trust Dediypada, 7, Sahyog Nagar, Opp. Civil Hospital, Mozda Road, Dediapada, Narmada-393040	Vs.	Commissioner Of income Tax (Exemption), Ahmedabad
[PAN No.AADTA3336Q]		
(Appellant)	..	(Respondent)

Appellant by :	Ms. Kinjal V. Shah, A.R.
Respondent by:	Shri Sudhendu Das, CIT-DR
Date of Hearing	17.04.2024
Date of Pronouncement	24.04.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad vide order 30.11.2022 passed for Assessment Year 2022-23.

2. The Assessee has taken the following grounds of appeal:-

“80G(5) – Appellant prays & appeals to the CIT(Exemption) to approve the order of 80 G (5) of Income Tax, 1961.

Appellant request your Honour to kindly take on record above submissions. Appellant shall be happy to provide the further information as your honour may think necessary. For the above and other grounds that may be urged at the time of hearing of appeal, your appellant humbly prays that the appeal may be allowed & justice rendered.”

3. The brief facts of the case are that the assessee filed application for approval of Trust under Section 80G(5) of the Act on 02.05.2022 in Form No. 10AB. However, the Ld. CIT(E), rejected the application of the assessee while observing that firstly, the assessee / applicant has submitted translated copy of

MOA of Rules and Regulations, which were not notarized and has not submitted copy of original MOA and Rules and Regulations. Secondly, the CIT(E) rejected the application on the ground that there is variation / discrepancy in the name of the assessee / applicant, wherein as per the Trust Deed, the name of the assessee is “Adivasi Gramin Vikas Trust-Dedyapada”, whereas name of the applicant as per PAN data base is “Adivasi Gramin Vikas Trus-Dedyapada”. Therefore, since the assessee / applicant has not submitted that requisite details, the genuineness of the activities of the assessee / applicant trust cannot be established. Accordingly, the Ld. CIT(E) dismissed the application of the assessee with the following observations:-

“5. However, in response to the said notice, the applicant/assessee has furnished part detail in reply. From perusal of details furnished, it is observed that the assessee/applicant had submitted translated MOA & Rules and Regulation which was not notarized and had also not submitted copy of original MOA and Rules & regulation. Accordingly, a notice dated 21/11/2022 was issued, requesting the applicant/assessee to submit the self-certified copy of trust deed (original/Memorandum & Articles of Association (MOA/AOA) if it is not in English/Hindi, then provide certified English translation also. In response to the same the assessee/applicant vide email dated 22/11/2022 had submitted copy of Rules & Regulation wherein it is observed that the name of the trust is Adivasi Gramin Vikas Trust-Dedyapada and the word Gramin is struck-off. However, in trust name, the name appears as "Adivasi Gramin Vikas Trust-uediyapada", whereas the name of the applicant as per PAN database is Adivasi Vikas trust Dedyapada. Further, the assessee has not submitted the copy of the original MOA and therefore objects of the assessee trust could not be verified.

*6. In spite of specific requisitions, the applicant/assessee has not submitted the requisite details. Therefore, no verification of the objects as per the trust deed with the activities could be carried out. Thus, the genuineness of the activities does not get established, due to non compliance by the applicant/assessee. Section 80G makes, it very clear that before granting registration under this section, the Commissioner has to satisfy himself about the genuineness of the activities of the trust or institution and also he has to verify that these activities are in consonance with the objects of the trust or institution. Further, he has to ensure that other laws material for the purpose of achieving objects are complied with. Reliance in this regard is also placed on the judgment delivered by the Hon'ble Supreme Court in the case of **Commissioner of Income-tax, Ujjain Vs Dawoodi Bohara Jamat Civil Appeal No. 2492 of 2014**, wherein the Hon'ble Apex Court while adjudicating similar provisions u/s. 12AA of the Act has held as under:*

"Section 12AA lays down the procedure to be followed by the Commissioner for grant or refusal of application for registration made under Section 12A. According to procedure so laid down, the Commissioner shall call for documents and information and conduct an enquiry to satisfy himself of the genuineness of the trust and upon reaching satisfaction of the charitable or religious nature of the objects and the authenticity of the activities of the trust, he would grant the registration. If he is not satisfied of the aforesaid, the request made in the application may be declined."

8. As discussed above, the applicant/assessee has failed to file documentary evidences to enable me to satisfy about the genuineness of its activities and to verify these activities are in consonance with its objects and hence the applicant/assessee is not entitled to get approval u/s. 80G(5) of the Income Tax Act therefore the present application filed in Form 10AB is liable to be rejected.

*9. Looking to the above facts, the present application filed in Form No. 10AB for the approval u/s. 80G(5) of the I.T. Act, 1961, is **"rejected"**."*

4. Before us, the Counsel for the assessee submitted that the assessee is an old Trust and carrying out activities since 2011. This is not a case where the assessee is a new Trust and seeking registration for the very first time. The Counsel for the assessee submitted that the assessee has been granted the registration under Section 12A and 80G of the Act in earlier year and has been carrying on it's activities since 2011. Therefore, the application filed by the assessee for grant of registration under Section 80G of the Act cannot be rejected on the ground that genuineness of the activities of the applicant / assessee trust are not established. Secondly, regarding the omission of the word "Gramin" in the name of the applicant trust, the Counsel for the assessee drew our attention to Page 36 of the Paper Book, wherein in the order for provisional approval, dated 06.04.2022, the name of the assessee is appearing as "Adivasi Gramin Vikas Trust-Dedyapada". Therefore, the Counsel for the assessee submitted that a perusal of the PAN card, registration document of the Trust dated 06.06.2012 etc. all substantiate the fact that in the name of the assessee / applicant trust, the name "Gramin" is not appearing. Further, the Counsel for the assessee submitted that in the Form 10AB, the assessee had

filed various documents before Ld. CIT(E) for the purpose of grant of registration, which were not at all considered by Ld. CIT(E), while summarily rejecting the application filed by the applicant trust. The Counsel for the assessee submitted that the Trust is an old Trust which has been operating since 06.06.2012 and the genuineness of the activities of the Trust cannot be doubted. Accordingly, the Counsel for the assessee challenge the order of Ld. CIT(E) rejecting the grant of registration under Section 80G of the Act on the ground that the order is erroneous and contrary to the provisions of law and looking into the instant facts, the applicant trust ought to have been granted registration under Section 80G of the Act.

5. In response, the Ld. D.R. placed reliance on the observation made by Ld. CIT(E) in the order passed by him rejecting the application for grant of registration under Section 80G of the Act.

6. We have heard the rival contentions and perused the material on record.

7. On going through the facts of the instant case, we are of the considered view that the assessee has been able to give a plausible explanation as to why the word “Gramin” is not appearing in the application filed by the assessee / applicant trust for grant of registration under Section 80G of the Act. Further, we also observe that the assessee is not a new trust, but has been earlier granted registration on 06.06.2012 and the genuineness of the activities of the assessee / applicant trust have not been doubted by the Department in any of the earlier years. Thirdly, we also observe that in the application for grant of registration under Section 80G of the Act in Form 10AB, the assessee has submitted a number of documents, which were not considered by Ld. CIT(E), while dismissing the application filed by the assessee / applicant trust for grant

- 5-

of registration under Section 80G of the Act. Accordingly, looking into the instant facts, we are of the considered view that in the interest of justice, the matter may be restored to the file of Ld. CIT(E) for considering the application for grant of registration under Section 80G of the Act and pass appropriate orders, in accordance with law, after taking into consideration the explanation / submissions filed by the assessee. In the result, the issue is restored to the file of Ld. CIT(E) for de-novo consideration and to pass appropriate order in accordance with law.

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

This Order pronounced in Open Court on	24/04/2024
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Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 24/04/2024

TANMAY, Sr. PS

TRUE COPY

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, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad