

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.1846/M/2024
Assessment Year: 2023-24**

M/s. Shankaralayam Trust, Shankaralayam, Off PL Lokhande Marg, Chembur (West), Mumbai Maharashtra- 400 089 PAN: MUMS93034E	Vs.	Commissioner Of Income Tax (Exemption), Room No.601, 6 th Floor, Income Tax Department, MTNL TE Building, Pedder Road, Dr. Gopal Deshmukh Marg, Cumballa Hill, Mumbai, Maharashtra-400 026
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Ritu Kamal Kishor, Ld. A.R.

Revenue by : Dr. Kishor Dhule, Ld. D.R

Date of Hearing : 05.09.2024

Date of Pronouncement : 28.11.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 14.02.2024, impugned herein, passed by the Ld. Commissioner of Income Tax (Exemptions) (in short Ld. Commissioner) under section 80G of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2023-24.

2. In the instant case, initially the Assessee was granted registration u/s 12A of the Act vide registration dated 21.08.2007 for carrying the objects such as religious, relief of the poor, education, yoga and preservation of the environment (including water sheds, forests and wild life). Subsequently the Assessee was granted provisional registration dated 31.05.2021 u/s 12A of the Act for the period from A.Y. 2021-22 to 2026-27.

3. The Assessee subsequently applied for registration u/s 80G(5) of the Act, which was also granted provisionally vide order dated 28.03.2022 for the period from 28.03.2022 A.Y. 2024-25.

4. The Assessee thereafter applied for regularization of registration granted u/s 80G(5) of the Act vide order dated 28.03.2022.

5. The Ld. Commissioner rejected the application filed by the Assessee u/s 80G(5) of the Act, mainly on the reason that from the financials furnished by the Assessee, expenditure incurred on religious activities is more than the prescribed limit of 5% of total expenditure.

6. The Assessee being aggrieved is in appeal before us.

7. Heard the parties ad perused the material available on record. As per memorandum of Assessee Society, the objects of the Assessee are as under:

“Swamiye Saranam Ayyappa

*Shankaralayam Sanstha (Regd.)
SHANKARALAYAM.PL. Lokhande Marg.Chembur.
Mumbai 400089*

"MEMORANDUM OF ASSOCIATION"

*1. Name of the Society : "Shankaralayam Sanstha"
2. Office Address : C/o Shree Hariharaputra Bhajan Samaj,
Shankaralyam, P.L.Lokhande Marg,*

Chembur, Mumbai 400 089.

3. OBJECTS OF SOCIETY..(see additions as per EOGM dated 26/sep/2021..from 10to20)

(1) To inculcate and develop a sense of secularism and spiritual value through the media of Community Prayers, Namasankirtans, "Parayanams, and Discourses and to foster amongst members and the public, the spirit of brotherhood, devotion and social service.

(2) To promote educational, cultural and spiritual knowledge by establishing schools, for Conducting classes in Marathi, Sanskrit, Music, Dance, Vedas, Yoga, etc..

(3) To sponsor study tours of students to places of national importance and reflecting the cultural and traditional Indian heritage and thereby to enlighten, teach young students particularly free if cost for needy poor students.

(4) To award scholarships, stipends and other concessions to students, scholars and other deserving persons.

(5) To provide financial or other assistance at the time of calamities like droughts, floods, Earthquakes, riots, etc. to the affected people.

(6) To assist any other institutions having simile spiritual objects or being conducted so as directly or indirectly to benefit the needy poor people or promote the objects for which the Association (Sanstha) is formed.

(7) To prevent, Air, Water pollution and to protect environment.

(8) To provide the social free of cost to needy - poor people.

(9) To do all such other lawful matters and things as are incidental and conducive to the attainment of the above objects or any of them.

(10) To organize and conduct Free Medical Check-Up Camps for the Benefit of Underprivileged and needy wherever needed

11) To provide financial assistance to economically weak citizens who are critically and terminally ill, for medical purposes.

(12) To provide assistance to Physically disabled person in the fixing of artificial limb and legs enabling them to be self sufficient and independent

(13) To organize blood donation camps with a view to facilitate the availability of precious blood to the critically ill patients as an act of saving lives

(14) To organize, facilitate and conduct Seminars and events with a view to provide guidance to Students in enabling them to choose and pursue careers of their choice and matching their ability.

(15) To provide for the retention of ancient literatures and manuscripts and their preservation with the view to enable the future generation to have access to important and valuable knowledge of ancient science and life.

(16) To provide for the education of students undertaking studies of ancient literatures a scriptures/manuscripts with a view to unearth and propagate valuable information of ancient times.

(17) To undertake to conduct of marriages of underprivileged couples thereby pursuing a holistic approach to improve the lifestyle of economically weak individuals.

(18) To provide assistance to underprivileged individuals in the conduct of event and functions.

(19) To conduct round the year ANNADHANAM for underprivileged and needy across the society.

(20) To pursue relevant socio charitable activities and conduct events for the uplifting of underprivileged citizens and economically weaker section of the society.”

7.1 The Assessee before us has submitted that as per CBDT circular No.11/2022 dated 03.06.2022 where due to technical glitches Form No.10AC has been issued during financial year 2021-22 with the heading “**order for provisional registration**” or “**order for provisional approval**” instead of “**order for registration**” or “**order for approval**” then such form No.10AC shall be considered as an order “**order for registration for approval**” in such cases where Form 10AC has been issued. Therefore Form No.10AC for grant of approval u/s 80G(5) of the Act issued on 28.03.2022 is liable to be considered as order for registration for approval in view of the circular No.11/2022 dated 03.06.2022.

7.2 Even otherwise the Assessee inadvertently mentioned the expenditure incurred for religious purposes in its financials, however, sub heads prescribed in the expenditure record, titled as “**relief of poor**” and main head/grouping has been shown as “**relief for poverty**” as the Assessee mainly distributed the food to the poor people in temples.

7.3 The Assessee before us also filed various documents such as photographs, details of ledger accounts and detailed expenditure of expenses incurred during the financial year 2022-23 as applicable to the instant case. The Assessee before us also filed detailed explanation of the expenses incurred for the financial year 31.03.2023 and according claimed that the Assessee has incurred the amount of Rs.1,88,500/- on the religious purposes and Rs.2,30,990/- on educational purposes and amount of Rs.24,09,166/- on relief of poverty and Rs.27,79,540/- on other charitable objects, which goes to show that the Assessee has not incurred more than 5% of the expenditure on religious purposes. The Assessee further claimed that the Id. Commissioner in the order has not specified the details of expenditure which are more than 5% of the total expenditure and therefore in view of the judgment passed by the Tribunal in the case of Shri Sadhu Margi Shantigranti Jain vs. Commissioner of Income Tax (Exemption) {ITA No.233/RPR/2023 decided on 22.01.2024} the impugned order is liable to be dismissed.

8. On the contrary the Ld. DR refuted the claim of the assessee and also supported the impugned order.

9. Heard the partis and perused the material available on record. Considering judgement cited by the assessee we observe that same is factually dissimilar to this case. From the objects of the Assessee, it does not appear that the Assessee society is involved in religious activities mainly and therefore considering the peculiar facts and circumstances and documents on record and rival claims of the parties in totality, we are inclined to direct the Ld. Commissioner to consider the Circular no.11/2022 dated 03.06.2022 in the context of the case of the Assessee. Further, the Ld. Commissioner shall also examine afresh the details filed by the Assessee by giving a reasonable opportunity to the Assessee to substantiate its claim by filing relevant details qua expenditure incurred and the evidence such as photographs as filed before us in order to establish distributing the foods to the poor's and other activities. Thus, the Ld. Commissioner is ordered according.

10. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order is pronounced as per Rule 34 of the Income-tax (Appellate Tribunal) Rules, on 28.11.2024.

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.