

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.629/Nag./2024
(Assessment Year : N.A.)

Sanghvi J.J. Gulabchand Charitable Trust
75, Wardhaman Nagar Appellant
Nagpur 440 008 PAN – AADTS5390N

v/s

Income Tax Officer Respondent
Ward-1, Exemption, Nagpur

ITA no.630/Nag./2024
(Assessment Year : N.A.)

R.S. Pandit And Aamyanti Pandit
Charitable Trust, Plot no.111-A, Rajni Appellant
Dagdi Park, New Ramdaspath
Nagpur 440 010 PAN – AAATR1626H

v/s

Income Tax Officer Respondent
Ward-1, Exemption, Nagpur

ITA no.631/Nag./2024
(Assessment Year : N.A.)

Urmi Pandit Charitable Trust
Plot no.111-A, Rajni Appellant
Dagdi Park, New Ramdaspath
Nagpur 440 010 PAN – AAATU0205D

v/s

Income Tax Officer Respondent
Ward-1, Exemption, Nagpur

Assessee by : Shri Abhay Agrawal
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 18/02/2025

Date of Order – 21/03/2025

ORDER**PER K.M. ROY, A.M.**

These appeal by the assessee are emanating from the impugned order dated 13/11/2024 (in ITA no.629/Nag./2024) and orders of even date 18/11/2024 (in ITA no.629-630/Nag./2024), passed in Form no.10AB, by the learned Commissioner of Income Tax (Exemption), Pune, [*learned CIT(E)*], rejecting the application filed by the assessee in Form no.10AB under clause (ii) of sub-section (5) of section 80G of the Income Tax Act, 1961 (*"the Act"*) thereby denying registration section 80G of the Act.

2. Since the grounds are common and inter-linked, a common order is passed for convenience by taking appeal in ITA no.629/ Nag./2024, as a lead case.

3. The learned Counsel for the assessee had briefly submitted as under:–

"1. Background and Registration of the Trust:

1.1 The appellant, Urmi Pandit Charitable Trust, was incorporated on 17.01.2002 and has been carrying out charitable activities for the past 22 years. The trust has been duly registered under section 12A of the Income-tax Act, 1961, and has been filing its Income-tax Returns and Audit Reports regularly within the prescribed statutory time limits.

1.2 The trust is also registered under the Bombay Public Trusts Act (BPT Act) under Registration No. E-1728 and has been regularly submitting audit reports under the said Act.

2. Previous 80G Registration and Compliance:

2.1 The appellant trust was previously registered under section 80G(5) (vi) of the Income-tax Act, 1961, by the competent authority. Following the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, all existing approvals under section 80G(5)(vi) required re-application within three months from April 1, 2021. However, due to a bona fide mistake, the appellant inadvertently applied under wrong clause (iv) instead of clause (i) of the first proviso to section 80G(5).

2.2 Despite this procedural error, the trust was granted provisional registration under clause (iv) for the period up to AY 2024-25. Trust was entitled to a regular approval under clause (i) for five years since it was already registered prior to amendment.

3. Application for Renewal and Subsequent Rejection:

3.1 On 20.05.2024, the appellant filed an application for renewal under clause (ii) of the first proviso to section 80G(5). However, the learned CIT (Exemptions), Pune, rejected the application vide order dated 13.11.2024 on the sole ground that the appellant had not submitted a copy of the regular 80G(5)(vi) approval order in Form 10AC, as required under Rule 11AA(2)(e).

3.2 It is submitted that the rejection was merely based on a procedural defect and not on any deficiency in the trust's charitable activities."

4. The learned Counsel for the assessee prayed that the direction may be given to the learned CIT(E) to ignore the inadvertent mistake and to process renewal application accordingly. He submitted that the Trust is enjoying registration under section 12AA of the Act till the assessment year 2026-27 and prayed that the approval under section 80G of the Act may be extended too.

5. We find that similar matter came up before the Tribunal, Jaipur Bench, in Hemdha Medi Resources Pvt. Ltd. v/s CIT, [2016] 159 ITD 627 (Jaipur), wherein the Tribunal decided the issue in favour of the assessee and against the Revenue by holding as under:—

"2.9 We have heard the rival contentions and pursued the material available on record. Firstly, it is interesting to note that it is for the third time that the appellant has filed the subject application under section 80G(5) and on the previous occasions, the reasons cited by the Id CIT varies from assessee not registered u/s 12AA to registration certificate u/s 12AA not enclosed with the application and hence, it is not eligible for approval u/s 80G(5)(vi). The reasons cited in the impugned order states that seeing the insignificant nature of activity, the case does not seems to be fit for granting exemption u/s 80G at this stage. The question that arises for consideration is whether the reason cited by the Id CIT justifies denial of approval under section 80G(5) of the Act. On perusal of section 80G(5) as well as Rule 11AA, what is required to be seen is whether the institution/fund has been established in India for a charitable

purpose or not. Secondly, it lays down certain additional conditions under clause (i) to clause (v) which are required to be fulfilled. Rule 11AA provides that where the CIT is satisfied that one or more of the conditions specified in clause (i) to clause (v) of section 80G(5) are not fulfilled, he shall reject the application for approval after recording his reasons for such rejection. In the instant case, the appellant has been duly registered under section 12AA which shows beyond any doubt that Id CIT has already verified the genuineness of the objects and its activities are not doubted by the CIT. Hence, having granted registration u/s 12AA, the first condition regarding establishment of institution for charitable purposes is fulfilled. Regarding satisfaction of additional conditions specified in clause (i) to clause (v) of section 80G(5), there is no dispute as apparent from the order of the Id CIT. As can be seen from Revenue's stand of rejection of earlier applications filed by the appellant, the approval under section 80G is closely linked to approval under section 12AA. Now once, the registration under section 12AA has been granted, the approval under section 80G should not be denied unless the case of the appellant falls under non-fulfillment of one or more of the conditions specified in section 80G(5) which is not the case before us. Regarding the activities carried out by the appellant towards achievement of its object for establishment of the hospital and medical college, it cannot be said that assessee has not yet commenced any activity. The CIT has accepted that assessee has taken steps for implementation of its objects in as much as it has acquired the land, converted the land for institutional use for setting up the hospital project, appointed the architect., carried out soil testing etc. All these activities are towards the achieving the objects of the trust. The registration under section 25 of the companies Act has been granted on 13.10.2012, subsequently the land was acquired on 29.3.2013 and thereafter other activities like conversion of land use, appointment of architects and soil testing has been done. The project of setting up hospital and medical college is a complex project requiring various approvals, clearances etc which the appellant has been complying with. It is critical that as part of fund raising programme for this project, the appellant has sought the approval under section 80G whereby the donations can be accepted for approved purposes and the project can be expedited. The approval under section 80G will thus aid and provide the necessary support in successful completion of the project. In our view, Id CIT (Exemption) was not correct in denying the approval under section 80G(5) to the appellant.

2.10 Further, we have gone through the decision of decision of Coordinate Bench in case of Pearls Educational Institute (supra). The said decision was rendered in the context of renewal of approval under section 80G and the fact that the appellant in that case had not commenced construction activities even after 3 years which is distinguishable on facts as stated above. In our view, the said decision doesn't support the case of the Revenue. In fact, the Hon'ble Allahabad High Court in case of Hardayal Charitable and Educational Trust (supra) is directly on the issue and supports our view. In that case, assessee trust applied for grant of registration u/s 12AA and approval u/s 80G(5). The CIT refused to grant registration and approval on grounds that trust was in process of construction of college for studies and that huge amount was spent on advertisement and promotion of business of its family concern. In subsequent assessment year, registration u/s 12AA and approval 80G was granted with conditions that exemption certificate would be effective from A.Y. 2012-13. It was held that:-

"For registration u/s 12AA which was necessary for claiming exemption u/s 11 and 12, CIT was not required to look into activities, where such activities had not or were in process of its initiation. Where a trust set up to achieve its objects of establishing educational institution, was in process of establishing such institutions, and receives donations, registration u/s 12AA cannot be refused on ground that Trust had not yet commenced charitable or religious activity. Enquiry of the CIT at such preliminary stage should be restricted to genuineness of objects and not activities unless such activities had commenced."

2.11 Interestingly, the decision of the Coordinate Bench in case of Hardayal Charitable and Educational Trust (supra) which was overruled by the Allahabad High Court was quoted by the Revenue while denying the exemption initially to the appellant under section 12AA. Given that the appellant has subsequently been granted approval under section 12AA and the said decision of the Coordinate Bench is overruled by the High Court shows that the appellant is well within its right to seek approval under section 80G as well. In view of above, the CIT(Exemption) is hereby directed to grant approval u/s 80G(5) of the IT Act, 1961 to the appellant.

In the result, the appeal filed by the assessee is allowed."

6. Relying upon the binding precedent and since the facts before us are identical, the learned CIT(E) is hereby directed to grant approval under section 80G of the Act in all the three cases.

7. In the result, assessee's appeals stands allowed.

Order pronounced in the open Court on 21/03/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 21/03/2025

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur