

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.322/Bang/2025

Assessment Year: --

Aanika Educational Trust, P-48, 6 th Main, 8 th Cross, Jeevanbhimanagar, Bangalore – 560 075. PAN – AAFTA 2446 R	Vs.	The Commissioner of Income Tax (Exemptions), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri C Ramesh, Advocate
Revenue by	:	Smt. Srinandini Das, CIT(DR)

Date of hearing	:	23.04.2025
Date of Pronouncement	:	25.04.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the CIT(E), Bangalore dated 23/12/2024 vide DIN No. ITBA/EXM/F/EXM45/2024-25/1071488064(1).

2. The only issue raised by the assessee is that the learned CIT(E) erred in not granting the registration under section 80G of the Act.

3. The relevant facts are the assessee is a trust imparting education. The appellant assessee filed Form 10AB as on 28th June 2024 for

registration under section 80G of the Act. However, the application for registration under section 80G of the Act was rejected by the learned CIT(E). While dismissing the application of the assessee learned CIT(E) found that the assessee is receiving fee from the student in the form of "School Fee" whereas section 80G of the Act applies on the donation. Being aggrieved by the order of the learned CIT(E), the assessee is in appeal before us.

4. The learned AR before us submitted that there was no violation of the provisions of section 80G of the Act and therefore, the registration under section 80G of the Act cannot be denied merely on the reasoning that the assessee is in receipt of school fees. According to the Id. AR, once the activities of the assessee have been accepted as genuine then the assessee should be granted the registration under section 80G of the Act.

5. Per Contra, the learned DR before us prayed to set aside the issue to the file of the AO for fresh adjudication as per the provisions of law. We have heard the rival contentions of both the parties and perused the materials available on record. The only issue involved in the present appeal pertains to the denial of registration under section 80G of the Act. We note that the assessee, is a trust with the stated objective of promoting education.

6. The assessee had initially filed Form 10A seeking registration under section 80G of the Act, pursuant to which it was granted provisional registration. Subsequently, for final registration, the assessee

submitted Form 10AB on 28th June 2024 but the registration under section 80G was denied by the learned CIT(E).

7. In the rejection order, the learned CIT(E) observed that the assessee collects fees from students and concluded that since section 80G of the Act pertains to donations made to charitable institutions, and not fee-based receipts, the assessee does not qualify for such registration. This interpretation, however, is found to be flawed and inconsistent with the established legal principles governing eligibility under section 80G of the Act.

8. In our considered opinion, the receipt of fees for educational services by a charitable institution registered under section 12AB of the Act does not disqualify it from seeking approval under section 80G of the Act, provided the institution's activities are genuine and falls within the purview of charitable purposes as defined under section 2(15) of the Act. Imparting education is recognized as a charitable purpose, and merely charging fees from students to sustain the functioning of the institution does not vitiate its charitable character, especially where no profit motive is evident, and the institution operates in accordance with its stated charitable objectives.

8.1 We also note the learned AR before us claimed that the assessee has already been granted registration under section 12AB of the Act, thereby confirming the genuineness of its charitable activities. In such a situation, unless there is a specific adverse finding as to misuse of funds or deviation from the stated charitable purpose, denial

of approval under section 80G of the Act solely on the ground of receiving fees from student is not legally sustainable.

8.2 Accordingly, we hold that the rejection of the application under section 80G of the Act by the learned CIT(E) is not justified and is liable to be set aside. The matter is restored to the file of the learned CIT(E) to examine the application afresh in accordance with law, after affording the assessee a reasonable opportunity of being heard and without being influenced solely by the ground of fee receipts. The Id. CIT(E) shall evaluate whether the donations, if any, are applied towards charitable purposes and whether all statutory conditions for approval under section 80G of the Act are met. Hence the ground appeal raised by the assessee is allowed for statistical purposes.

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

Order pronounced in court on 25th day of April, 2025

Sd/-

(PRAKASH CHAND YADAV)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 25th April, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore