

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No. 21/Bang/2025
Assessment Year: 2024-25

Sri Anitha Education SocietyR, Pejamangoor Kokarne, Udupi – 576 234. PAN – AAKTS 8572 K	Vs.	The Commissioner of Income Tax Exemptions, Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Madhukeshwar Hegde, C.A
Revenue by	:	Shri E Shridhar, CIT (DR)

Date of hearing	:	20.02.2025
Date of Pronouncement	:	24.04.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the Id. CIT(E), Bangalore dated 12/11/2024 in DIN No. ITBA/EXM/F/EXM44/2024-25/1070292595(1) for the assessment year 2024-25.

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 that the assessee is running an English Medium School in the village Kokkarne in Udupi District, Karnataka. The appellant assessee filed Form 10A as on 1st November 2022 for

registration under section 12AB and under section 80G of the Act. The appellant assessee was provided with provisional registration as on 8th November 2022 under both the sections.

4. Subsequently, the assessee filed Form 10AB as on 25th May 2024 for final registration under section 12AB as well as under section 80G of the Act. The registration under section 12AB of the Act was granted vide order dated 12th November 2024.

5. 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 whereas section 80G of the Act applies on the donation.

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

7. The learned AR before us submitted that the learned CIT (E) has not pointed out any infirmity in the objects and bylaws of the institution. As such, the objects and the bylaws of the institutions have been accepted while granting the registration under section 12AA of the Act. Thus, the learned AR contended that the registration under section 80 G of the Act cannot be denied in the given facts and circumstances.

8. On the other hand, the learned DR before us vehemently supported the order of the authority below.

9. 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 engaged in running an English Medium School, with the stated objective of promoting education.

9.1 The assessee had initially filed Form 10A on 1st November 2022, seeking registration under section 12AB and section 80G of the Act, pursuant to which it was granted provisional registration under both provisions on 8th November 2022. Subsequently, for final registration, the assessee submitted Form 10AB on 25th May 2024. While registration under section 12AB was granted vide order dated 12th November 2024, the registration under section 80G was denied by the learned CIT(E).

9.2 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.

9.3 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. Running a school for the advancement of 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.

9.4 We also note 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.

9.5 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. Hence, 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 of appeal raised by the assessee is allowed for statistical purposes.

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

Order pronounced in court on 24th day of April, 2025

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 24th April, 2025

/ vms /

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore