

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA Nos.159 & 160/Bang/2025
Assessment Years: NA/-

Child Desire Foundation No.34/6, 1 st Floor Hanumanthappa Building Banasawadi Main Road Bangalore 560 033 Karnataka PAN NO : AACTC6970D	Vs.	CIT (Exemptions) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Sri Raviteja Bunga, A.R.
Respondent by	:	Ms. Srinandini Das, D.R.

Date of Hearing	:	19.03.2025
Date of Pronouncement	:	30.05.2025

O R D E R

PER BENCH:

These appeals at the instance of the assessee are directed against the order of Id. CIT(Exemptions) both dated 30.12.2024 vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-25/1071702451(1) rejecting the registration u/s 12AB of the Income Tax Act (in short “The Act) and vide DIN & Notice No. ITBA/EXM/F/F/EXM45/2024-25/1071702563(1) rejecting approval u/s 80G of the Act.

2. First, we take up ITA No.159/Bang/2025 for adjudication. In this appeal, the assessee has raised the following grounds of appeal:

The Rejection of application under Section 12AB is incorrect and unlawful due to the following Reasons:

1. About Employee Benefit Expenses:

The Order states as follows:

"From the details, it appears that a substantial amount is being spent towards employee benefit expenses and the quantum does not appear justifiable against the total receipt of donations received by the trust (AY 2022-23: 33%, AY 2023-24: 36% & AY 2024-25: 28%)".

The CIT (Exemptions) did not ask us to provide any justification for the expenses spent towards the employee benefits during the proceedings of our application.

The Employee benefit expenses include the salaries & Travel Allowances paid to project coordinators, Slum area survey personnel, beneficiaries back ground verification staff and program helpers. It is not justifiable to consider all these expenses as administration expenses.

However, we had one accounting person and his salary is Rs. 20,000 – 25,000 per month. The accounting person salary alone is the administration expenses incurred by the trust. Remaining all the salaries are directly related to the fund raising and attain the objectives of the trust.

Further, we were having 6-7 staff members working as fund raisers, project heads, beneficiary background verification etc. We used to pay everyone averagely 15,000-20,000 per month.

In a city like Bangalore, the minimum wage requirement is not less than 15,000 per month for any job role.

Further, Employing an MSW (Masters in Social Work) person is mandatory to run social programs. The average expected salary for an MSW employee is Rs. 30,000 per month.

We were never given an opportunity to justify the expenses spent towards the employees. If the opportunity would have given, we would have provided all the supporting documents and necessary data in support of our argument.

However, the CIT (exemptions) considered these expenses as not justifiable without providing us an opportunity to explain.

3. The brief facts of the case are that the assessee is a Trust registered vide Trust deed dated 4.3.2020 under registration no.BNS-IV-929-2019-20 followed by an amendment to the trust deed on 13.10.2023 to correct certain objectives & to include some more objects in the trust deed. The assessee trust had obtained registration u/s 12AB(1)(b) of the Act vide order in form 10AD dated 13.11.2023 for a period of assessment year 2021-22 to 2025-26. Thereafter, the assessee trust applied for renewal of the existing registration by filing form 10AB on 18.10.2024.

3.1 The Id. CIT (Exemptions), Bangalore after receipt of the application had called for a report from the jurisdictional assessing officer (JAO) who had not recommended the case for renewal based on partial submission made before the JAO. Further, the Id. CIT (E) clubbed the hearing with the hearing for assessee's application for approval u/s 80G of the Act. During the course of hearing, it is observed by the Id. CIT (E) from the financial statement submitted that the assessee had made major payments towards employee

benefit expenses, rent and purchase of groceries, book, medicine and cloths in the last three assessment years 2022-23, 2023-24 & 2024-25. On going through the bank statement and other details submitted, the Id. CIT(E) found that substantial amount is being spent towards employee benefit expenses and the quantum does not appear justifiable against the total receipts of donations received by the trust for the last 3 assessment years.

3.2 Further, after perusing the bills/invoices submitted towards the major medical expenses to Apollo Pharmacy and Vasumathi Ayurvedic Pharmacy, the Id. CIT(E) found that quantities mentioned in these bills/invoices do not appear to be for distribution purposes among public at large. Further, the Id. CIT(E) is of the view that no details were submitted as to who are the beneficiaries and how are they identified. Lastly, the Id. CIT(E) observed that despite a major quantum of expenses towards the medical expenses, it does not find a place in the list of activities conducted/project detail submitted by the assessee.

3.3 Accordingly, Id. CIT(E) held that as the assessee is required to submit necessary documents to prove the genuineness of the activities of the trust and also the compliance of such requirements of any other law as are material for the purpose of achieving its object, the assessee has not complied with the law as required in sub-clause (A) of clause (i) of section 12AB(1) of the Act and accordingly the application in form 10AB dated 18.10.2024 filed for registration u/s 12AB of the Act was rejected and consequently the registration was cancelled.

4. Aggrieved by the order of Id. CIT(E) rejecting the registration the assessee has preferred an appeal before this Tribunal. The assessee has also filed paper book containing therein the copy of

the trust deed, trust brochure, trust object-wise and area-wise data, salary expenses and related annexures, etc. to support its claim.

5. Before us, the ld. A.R. of the assessee vehemently submitted that the employee benefit expenses are incurred for the purpose of the object of the Trust and are paid to the project heads, fund raising professionals and project implementers. Further the ld. CIT(E) could not pointed out any bogus or illegitimate payment of Employee benefit expenses except by saying that the quantum did not appear justifiable against receipts.

5.1 Further, with regard to major medical expenses, the ld. A.R. submitted that the medicines unlike any other goods cannot be distributed to general public at large. The assessee trust purchased the medicines for the under privileged people based on the requirement and as prescribed by the doctors. Further, AR of the assessee submitted that the ld. CIT(E) had never asked for any details regarding the beneficiaries and accordingly, requested to allow the appeal of the assessee.

6. The ld. D.R. on the other hand, vehemently supported the order of ld. CIT(E) and submitted that the employee benefit expenses did not justify against the total receipts of donation received by the trust for the last 3 assessment years. Further, despite a major quantum of expenses incurred towards the medical expenses but it did not find a place in the list of activities conducted/project details and therefore, ld. CIT(E) has rightly held that the assessee has not complied with the law and accordingly rightly cancelled the registration.

7. We have heard the rival submissions and perused the materials available on record. On going through the order of ld.

CIT(E), we take a note of the fact that the Id. CIT (E) herself in her Order has observed that the assessee Trust had made major payment towards employee benefit expenses, rent, purchase of books, groceries, medicines and cloths during last 3 AYs 2022-23, 2023-24 & 2024-25. Further before us, the assessee had also produced the details of Saree distribution, Grocery distribution, Shoes Distribution, Medicine distribution as well as education assistance given to various students. The Id. CIT(E) has not pointed out any of these expenditures/application to be not genuine or unauthentic. Further, it is not the case of the revenue that no documents have been produced by the assessee. The Id. CIT(E) has rejected the application in form 10AB dated 10.11.2024 and cancelled the registration on the grounds detailed below:

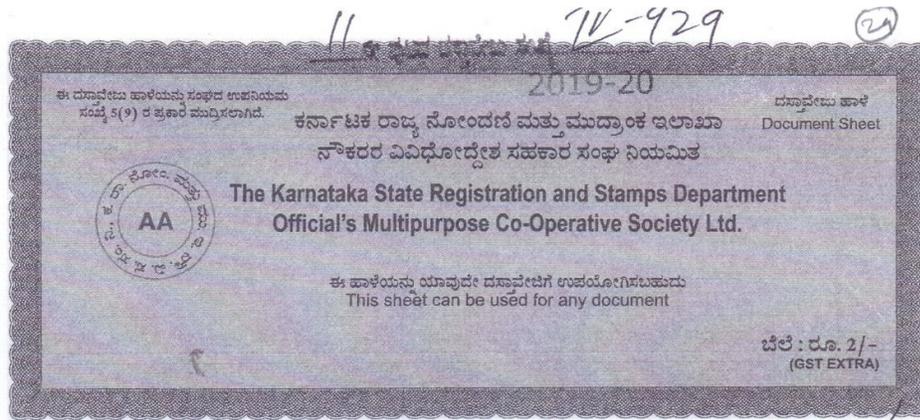
Substantial amount spent towards employee benefit expenses -

- i. Substantial amount being spent towards employee benefit expenses the quantum of which does not appear justifiable against the total receipts of donations.

Major medical expenses -

- i. The quantities mentioned in the bills/invoices towards the medical expenses do not appear to be for distribution purposes among **public at large**.
- ii. No details were submitted as to who are the beneficiaries and how they are identified.
- iii. Despite a major quantum of medical expenses, it does not find a place in the list of activity conducted/project details.

7.1 Before proceeding further, it is apposite to refer the trust deed dated 4.3.2020, the objects of the trust are as follows:



6.9 To Promote child welfare and child development through welfare and development programmes.

6.10 promote awareness positive attitudinal changes positive behaviour changes through social leadership training and other leadership programmes.

6.11 Start vocational trade school for trade dropouts and unemployed in rural and urban communities.

6.12 Promote foster activities contributing to socio economic development of the people.

6.13 Undertake relief and rehabilitation activities during riots, natural calamities, drought famine and other emergency situation.

6.14 To promote and foster welfare and rehabilitation of the street children, child labour, minor girls, prostitute, orphans' destitute widows and drug addicts through welfare and rehabilitation activities.

6.15 To start and maintain home for the neglected senior citizens in the communities, orphans and poors.

6.16 Promote and Foster Rehabilitation and development physically handicapped through rehabilitation and development programmes.

7. THE OBJECTIVES OF THE TRUST

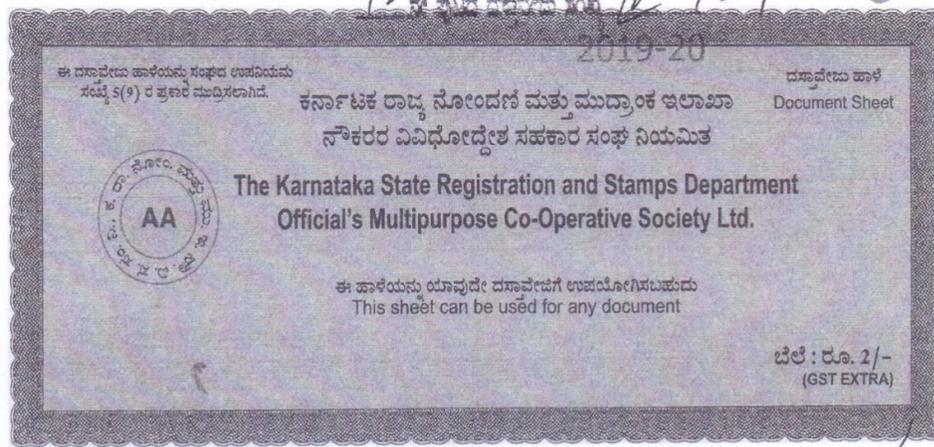
7.1 To promote and further the cause of education, both nationally and globally, in its widest amplitude and therefore, to acquire, establish, commence, continue, assist, run, administer, takeover, manage, guide, organize, develop, maintain, extend, advise or be involved partially or fully with;



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7.2 Schools, Training institutes, development centers, remedial centers, rehabilitation centers, workshops, courses, instruction centers, guidance centers for the handicapped (the definition of the word 'Handicapped' being inclusive of disabilities of any nature whatsoever) including orphan children for free

7.3 Other schools, institutions centres, colleges, training centers, guidance centers, employment bureaus, academics, centers, and institutes in existence or otherwise "As board sense possible", related to the imparting, dissemination of knowledge to any person, groups of persons, associations or class of persons. free of cost

7.4 Hostels, residential centers, accommodation centers, for the benefit and use of such persons as may be in need of the same, free of cost

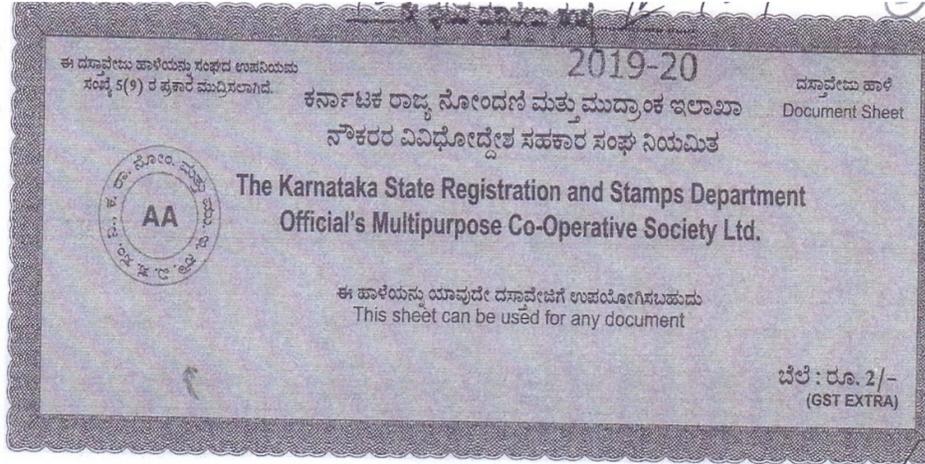
7.5 libraries, reading rooms, recreation centers, mobile libraries, centers or institute for promotion of any extra -curricular activity, skills, talents or for developing a scientific temper; institutes, schools, colleges, departments, associations, promoting or encouraging originals, independent and bonafide research into any subject, discipline, free of cost

7.6 Centers, schools, colleges, Institutions for formal, academic education in all fields "as broad sense possible" leading to award professional degrees, diplomas and certificates.

7.7 To propagate, promote and encourage the study of and research into all forms of leadership and educational techniques, concepts, systems, performance, enhancement, processes, and for that purpose to organize classes, programs, workshops, seminars, festivals, exchange programs, competitions or establish and run institutions, colleges, schools, academies imparting education and training therein leading to the award of degrees, diplomas, doctorates, certificates in any or all such subjects and to afford, establish and maintain facilities for research into any of the aforesaid subjects.



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7.8 To Promote, encourage and provide opportunities for a qualitative and meaningful interaction amongst people all over the world, in every area of human endeavor, expertise, knowledge, information by actively promoting, arranging for, sponsoring, financing international exchange programs, tours, studies, both nationally and globally.

7.9 To encourage, assist or support, financially or in any other manner any person/s in the pursuit of his academic or professional career, interests or research project or cultural interests or for and in the pursuit of education, study of any subject, course, art, craft, skill, profession or vocation or for the quest, formal or otherwise, to acquire knowledge, expertise, skill, qualifications, inter alia, by paying, underwriting, reimbursing any fees, charges, tuition fees, subscriptions, charges for boarding/lodging, hostel, accommodation or similar expense and/or by facilitating the acquisition of providing books, educational material, implements, equipments or by providing any or all of them and to establish a free unrestricted access to knowledge, information, data, nationally and internationally.

7.10 To institute, award, create, establish or take over the administration of or support any existing or on-going, scheme, endowments, scholarships, free ships, fellowships, awards, grants, stipends, honorariums prizes, medals, recognitions, citations for achievements in any human endeavor, particularly in relation to education, arts, science, research, fine arts, either on the basis of merit, proficiency, excellence or economic need or financial status or both as may be determined from time to time by the Board under schemes, rules and regulations that may be framed by the, for such purpose.

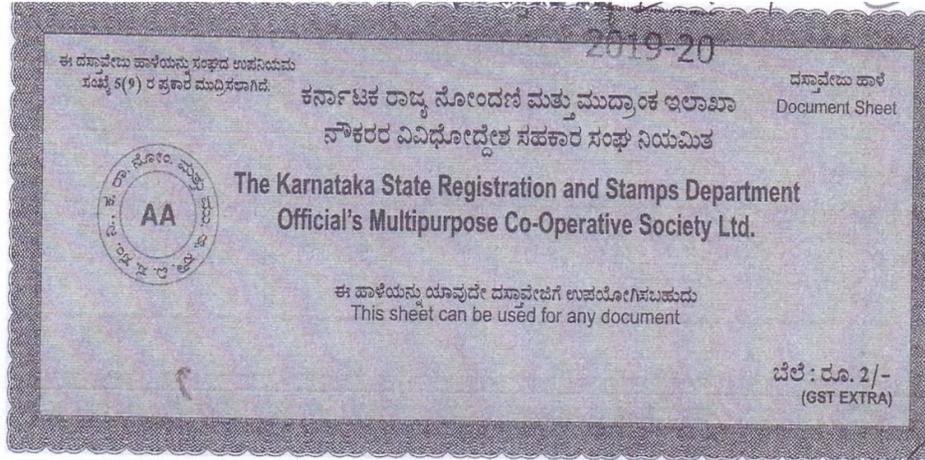
7.11 To participate in or take over, merge with or join or be associated with any other person, body, Trust, Institution, Society, company, firm, association registered or otherwise, family joint or otherwise, family joint or otherwise, industry, voluntary, social or community service organizations, co-operative societies or any other group of individuals, carrying or intending



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to carry on any activity similar to that of this Trust, with the manner and extent of such participation, taking over, merging, joining or association being decided by the board provided that such participation, taking over, merging or joining or association does not adversely affect the interests of this Trust or alter the objects of this trust to its disadvantage.



7.12 To acquire, by sale, purchase, gift; exchange, lease, sublease, transfer, surrender, release, mortgage or in any other lawful manner, any immovable property, buildings, vacant land, shed, houses, offices, shops under which terms as may necessary and to hold the same in the name of the Trust and to sell, lease, transfer, mortgage(equitable or otherwise), pledge as security, create a charge, lien, encumbrance on any or all of such property, building, vacant land, shed, houses, offices, shops, belonging to the Trust, on such terms as may appear necessary, purely for and in furtherance of the objects of the Trust, without resulting in or creating any personal liability against the Board jointly or singly.

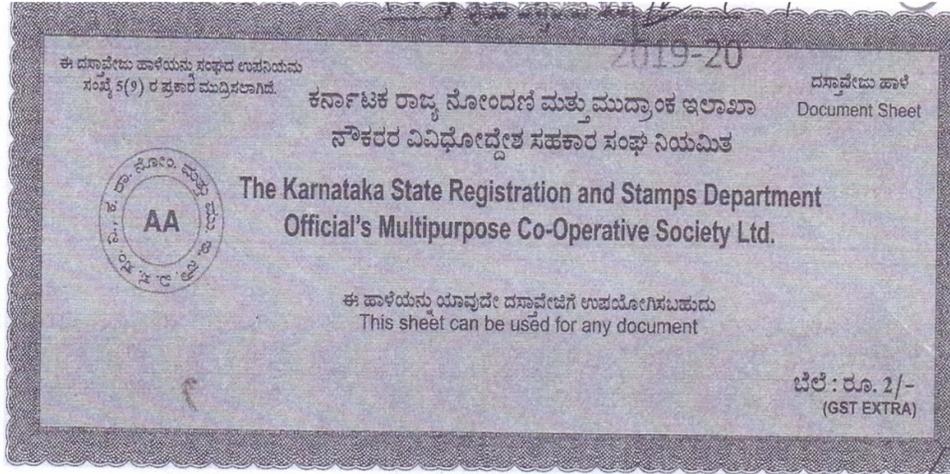
7.13 To commence, organize, further establish, support, financially or otherwise, donate or contribute, in cash or kind, to any person, group of persons, other Trust or other organization established for promotion of public good and/or charitable cause and/or for any other deserving cause approved by the board.

7.14 To promote study and research in the field of healthcare, in its widest meaning and connotation, including the establishment of institutes, schools, colleges, research and development laboratories, testing laboratories and centers, training institutes and organizations, and therefore to enter into contracts with persons, entities, institutions, companies, in India and overseas, in order to achieve such object including the hiring of consultants specialized in the field of healthcare.



7.15 To establish, manage, run, takeover the management of or to assist in establishing, running or managing medical colleges, offering a course of studying in allopathic, or any

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other form of ancient/alternate medicine, holistic treatment, hospitals, clinics, pharmacies, nursing homes, medical dispensaries, diagnostic laboratories, centers, ambulance, research centers, chemists and druggists and establishing, maintaining and running of homes for providing refuge and shelter to the aged, widows, decrepit, orphans, lunatics, lepers, handicapped persons and any other marginalized or deprived sections of society and to provide medical care, health and facilities to any person of the community, irrespective of sex, caste, community or creed anywhere in India or overseas.



7.16 To organize, conduct, sponsor, participate in any activity in the fields of medicine, healthcare, leadership, education, management, oratory, public speaking, extra-curricular activities, films, both nationally and internationally and for and in pursuance thereof to organize, programs, previews, premiers, international exchange programs, youth exchange programs, group study exchange programs, seminars, cultural exchange programs, and all similar programs or events.

7.17 To carry on all or any of the activities, aims, objects, hereinbefore referred to, throughout the territory of India or any part thereof; or in any state in India or part thereof without hindrance or restriction as well as territories and countries outside the geographical boundaries of India.

7.18 To disseminate knowledge, and impart education with intent to create a positive awareness amongst citizens in and related to civic sense, responsibilities, civil rights, liberties, human rights, environment and for that purpose to participate in or conduct, organize seminars, events, programs, conferences or enter upon public education through the use of media in any form.



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7.19 To create a forum for the collection and dissemination of information pertaining to issues related to public life, education and educational techniques and such other subjects as the Board deems appropriate and related to the object of the trust.

7.20 To publish or cause to be published or to assist any person/s in publishing of books, articles, brochures, manuals on any subject, with intent to disseminate information to the public and distribute or sell the same on such terms as the Board may decide.

7.21 To promote the study of science within the community, without restriction, but in particular among younger people and children and organize or support programs in this regard.

7.2 On going through the above objects of the trust we also take a note of the fact that the Id. CIT(E) did not dispute any of the objects not to be charitable in nature. All her objection however, revolves around on the application by the assessee trust towards the employee benefit expenses, major medical expenses and justifiability of incurring these expenditure. We are of the considered opinion that justification of expenditure whether excessive or not would fall for consideration at the time of assessment proceedings and it is not relevant factor to reject the registration u/s 12AB of the Act. We also agree with the contention of the AR of the assessee that the Id. CIT(E) could not pointed out any bogus or illegal payment of Employee benefit expenses except by saying that the quantum did not appear justifiable against receipts. Further, we are of the considered opinion that section 12AB of the Act empowers the Id. CIT(E) upon receipt of an

application for registration of the trust to call for such documents or information or make such inquiries as may be necessary in order to satisfy herself about –

- a) the genuineness of the activities of the trust or institution and
- b) the compliance of such requirement of any other law for the time being in force by the trust as are material for the purpose of achieving its objects.

7.3 In the present case, the Id. CIT(E) has not pointed out any ingenuineness of the activity of the trust in accordance with the object as enumerated in the trust deed and also failed to demonstrate how the requirement of the compliance of any other law which are material for the purpose of achieving the object are not met. Before us, Id. A.R. of the assessee vehemently submitted that employee benefit expenses includes salary to project heads and project workers, salary related to admin. staff as well as general staff welfare which were paid for achieving the object of the Trust. Before us, the assessee trust have also produced details of employee benefit expenses incurred for last 3 assessment years along with the ledger copies of the salary, accounting charges, staff welfare placed at page 73 to 87 of the paper book and on going through the same, we find that the amount has been incurred exclusively to meet the objective of the trust and we do not find any ingenuineness. We are of the considered opinion that the Id. CIT(E) cannot steps into the shoes of the assessee & determine how much expenses to be incurred. Further, with regard to the major medical expenses paid to Apollo Pharmacy and Vasumathi Ayurvedic Pharmacy, we agree with the contention of the assessee that the medicines cannot be distributed to general public at large unlike general goods & merchandise. Further, before us, the Id. AR of the

assessee submitted that the purchase of medicines were only for the under privileged people based on the requirement and the prescription of the doctors. We also find that the object of providing the medical support/help is also one of the object clause of the trust deed as reproduced above. Before us, the assessee has produced the trust's object-wise and area-wise activity report in which the name and address of the beneficiaries are submitted along with the other activities. The Id. CIT (E), however observed that the assessee has not submitted the details of beneficiaries and how they are identified. Further, it seems that the details of activities conducted towards the Project – Medicine Distribution has not been submitted before Id. CIT (E). This being so, we are remitting this issue to the file of Id. CIT (E) to verify these details produced before us in accordance with law and grant the registration accordingly.

8. In the result, appeal of the assessee in ITA No.159/Bang/2025 is partly allowed for statistical purposes.

9. Now we take up ITA No.160/Bang/2025, wherein the assessee has raised following grounds of appeal:

The Rejection of application under Section 80G (5) is incorrect and unlawful due to the following Reasons:

1. About Employee Benefit Expenses:

The Order states as follows:

"From the details, it appears that a substantial amount is being spent towards employee benefit expenses and the quantum does not appear justifiable against the total receipt of donations received by the trust (AY 2022-23: 33%, AY 2023-24: 36% & AY 2024-25: 28%)".

The CIT (Exemptions) did not ask us to provide any justification for the expenses spent towards the employee benefits during the proceedings of our application. The Employee benefit expenses include the salaries & Travel Allowances paid to project coordinators, Slum area survey personnel, beneficiaries back ground verification staff and program helpers. It is not justifiable to consider all these expenses as administration expenses. However, we had one accounting person and his salary is Rs. 20,000 – 25,000 per month. The accounting person salary alone is the administration expenses incurred by the trust. Remaining all the salaries are directly related to the fund raising and attain the objectives of the trust.

Further, we were having 6-7 staff members working as fund raisers, project heads, beneficiary background verification etc. We used to pay everyone averagely 15,000-20,000 per month. In a city like Bangalore, the minimum wage requirement is not less than 15,000 per month for any job role.

Further, Employing an MSW (Masters in Social Work) person is mandatory to run social programs. The average expected salary for an MSW employee is Rs. 30,000 per month.

We were never given an opportunity to justify the expenses spent towards the employees. If the opportunity would have given, we would have provided all the supporting documents and necessary data in support of our argument. However, the CIT (exemptions) considered these expenses as not justifiable without providing us an opportunity to explain.

CHILD DESIRE FOUNDATION



2. The Bills/ Invoices

The order states as follows:

"The bills/Invoices submitted towards the major medical expenses to Apollo Pharmacy and Vasumathi Ayurvedic Pharmacy were also perused carefully and the quantities mentioned in these bills/Invoices do not appear to be for distribution purposes among public at large. Also, no details were submitted as to who are the beneficiaries and how are they identified. Despite a major quantum of expense towards the medical expenses, it does not find a place in the list of activities conducted/ Project details submitted by the assessee."

The order has been passed based on the sample invoices provided. Further, the order states that the quantities mentioned in Apollo pharmacy & vasumathi Ayurvedic pharmacy are not appear to be for public at large.

The medicines shall not be distributed at public at large without proper prescriptions from the doctors. Food can be distributed to public at large but not the medicine. All the medical support is provided based on case-to-case basis. Our team finds the underprivileged individuals, verify their background, collect all the doctor prescription and purchase medicines for them. Hence, the medicines cannot be purchased for public at large.

Further the order stated that no details of beneficiaries and how are they identified are not provided. We documented & maintained the KYC details of all the beneficiaries, Prescriptions from doctors, their profile, etc at the registered office. However, during the proceedings it was never been asked us to provide the said details. If asked, we would have provided all the data. The officer asked us to provide only the activities report and we have provided the same.

Further, we have requested the officer through our authorized representative to visit our office and witness the activities and projects that we are doing. However, the respected officer rejected our request mentioning that they do not have any time to do so.

Based on the above said explanations and reasons, we are highly aggrieved by the Rejection order.

10. On going through the order of Id. CIT(E), we find that the grounds for rejection approval u/s 80G of the Act are same as enumerated in ITA No.159/Bang/2025 in rejecting registration u/s 12AB of the Act. Further, the Id. CIT (E) clubbed the hearing for approval u/s 80G of the Act with the hearing for assessee's application for registration u/s 12AB of the Act. Since we partly allowed the appeal of the assessee for verifying the details of Project – Medicine Distribution along with the activity report, we accordingly mutatis mutandis remit this appeal also for the limited purposes of verification of the same.

11. In the result, the appeal of the assessee in ITA No160/Bang/2025 is also partly allowed for statistical purposes.

12. In the combined result, both the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 30th May, 2025

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 30th May, 2025.
VG/SPS

Copy to:

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

By order

**Asst. Registrar,
ITAT, Bangalore.**