

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA Nos.441 & 442/Bang/2025
Assessment Year : N.A.

Sri GMH Charity Foundation GMIT Campus PB Road Davanagere 577 004 Karnataka PAN NO : AAETS7939N	Vs.	CIT (Exemptions) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Ramanagowda S Gowdar, A.R.
Respondent by	:	Sri E. Shridhar, D.R.

Date of Hearing	:	05.05.2025
Date of Pronouncement	:	28.07.2025

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

These appeals at the instance of the assessee are directed against the order of the ld. CIT(Exemptions) Bangalore both dated 27.12.2024 vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-25/1071608709(1) cancelling the approval u/s 80G of the Act of the Income Tax Act, 1961 (in short “The Act”) and vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-25/1071608504(1) cancelling the registration u/s 12AB of the Act. Since the issue in both these appeals of the same assessee trust is common & more particularly the outcome of ITA No.441 /Bang/2025 is dependent on outcome of ITA No.442 /Bang/2025 , these are clubbed together, heard together and disposed of by this common order for the sake of convenience.

2. Now first, we take up ITA No.442/Bang/2025 for adjudication. In this appeal, the assessee has raised the following grounds of appeal:-

10	Grounds of Appeal	Tax effect relating to each ground of appeal (see note below)
1	The order of the Ld. CIT (Exemption) is opposed to the law, facts and circumstances of the case.	Rs. 0
2	The order of the Ld. CIT (Exemption) is opposed to the various court decisions which is favoring the appellant is against the law and natural justice.	Rs. 0
3	The Ld. CIT (Exemption) ought to have considered the documents provided before the AO.	Rs. 0
4	The Ld. CIT (Exemption) ought to have granted exemption u/s. 12AB after providing the necessary documents as sought in the notice and during the personal hearing.	Rs. 0
5	The Ld. CIT (Exemption) has erred in stating that donations/corpus donations received during the first years of inception which is not been sought from the appellant either through notice or through personal hearing.	Rs. 0
6	The Ld. CIT(Exemption) has rejected the appellants application without seeking further details from the appellant which was available with the appellant.	Rs. 0
7	The Ld. CIT(Exemption) has erred in presuming that the activities are not genuine at the Granting of registration itself.	Rs. 0
8	The Ld. CIT(Exemption) erred in not considering the appellants submissions and detailed activity notes and other details submitted during the hearing without finding out the Deficiency and seeking the same. What is not sought is stated in the impugned order that it is sought and fails to provide the same.	Rs. 0
9	The order is passed in haste, without providing sufficient and reasonable opportunity of being heard, violating the principle of natural justice and is thus, liable to be quashed.	Rs. 0
10	The appellant prays that the relief prayed for may kindly be allowed and the order of the Assessing Officer may kindly be quashed, set aside, annulled or modified.	Rs. 0
11	The Appellant craves leave to add, alter, substitute, modification, substitution, withdrawal and delete any or all the grounds of appeal urged above.	Rs. 0
Total Tax Effect		Rs. 0

3. Brief facts of the case are that the assessee trust is established by way of Trust Deed dated 30/11/2004 under the name & style of “ Sri G. Mallikarjunappa Smt. Halamma Charity Foundation” in short Sri GMH Charity Foundation. The objects of the Trust are Rural Development, Relief to poor, Education and Other objects of general public utility. The assessee trust had been

granted registration under sub clause (i) of clause (ac) of sub-section (1) of section 12A of the Act on 30/09/2021 from the Assessment year 2022-23 to Assessment years 2026-27 vide Unique Registration Number **AAETS7939NE20210**. The Assessee Trust had also been granted provisional approval under clause (iv) of first proviso to sub-section (5) of section 80G of the Act on 06/10/2021 vide Unique Registration Number **AAETS7939NF20218** from 06/10/2021 to Assessment year 2024-25. On receipt of application in form 10AB dated 30.6.2024 for the renewal of registration u/s 12AB of the Act, the Id. CIT(E) assigned the case to the JAO for verification. The JAO issued letters/notices through official mail/post calling for the details/documents. The details submitted by the assessee were verified.

3.1 The Id. CIT(E) observed that major donations of the trust were stated to be from a related entity called M/s. GEM International Pvt. Ltd. The funds received during the year ended on 31.3.2023 and 31.3.2024 were Rs.27,56,601/- and Rs.11,15,000/-. Out of the credits, the assessee trust made payments towards the objects i.e. an amount of Rs.21,93,870/- for supply of food items to poor during FY 2022-23. However, Id. CIT(E) observed that the amount has been paid to GM Sugars. The amount of Rs.3,80,000/- for bags and books to the children during FY 2023-24 for which no proof had been produced. The Id. CIT(E) further observed that the assessee received an amount of Rs.1,46,00,001/- as corpus donation towards the establishment of Oxygen Plant. The A.R. was asked to furnish the details of corpus donations which were received during the year for the oxygen plant establishment.

3.2 The Ld. CIT(E) found that in HDFC bank bearing account no.919010006113971 for the period 1.4.2021 to 31.3.2022 the amount of Rs.144.34 lakhs have been paid to M/s Orchid

Renewable Energy. The ld. A.R. stated that the full amount paid to M/s. Orchid Renewable Energy for the establishment of Oxygen Plant, however, ld. A.R. failed to produce documentary evidence such as agreement or Memorandum of Understanding etc. The assessee did not furnish the details such as where and when the oxygen plant was installed, details of the beneficiaries of the plant and the documents for having installed the plant. In view of the above, the ld. CIT(E) held that as the assessee did not furnish the documents for establishment of oxygen plant where trust received huge corpus funds and for the charitable activities, the genuineness of the charitable activities can't be proved and hence the ld. CIT(E) rejected the application in form no.10AB dated 30.6.2024 filed for registration u/s 12AB of the Act and registration was cancelled.

4. Aggrieved by the order of ld. CIT(E) Bangalore dated 27/12/2024, the assessee has filed the present appeal before this Tribunal.

5. Before us, the ld. A.R. of the assessee submitted that the ld. CIT(E) passed the order cancelling the registration without providing reasonable opportunity being heard. Further the AR of the assessee submitted that the ld. CIT(E) had issued only one notice/letter dated 04/10/2024 & the assessee had also filed detailed reply on 03/11/2024. Further the ld. CIT(E) never asked the assessee to produce details/documents regarding establishment of Oxygen plant and accordingly prayed to grant one more opportunity before the ld. CIT(E) to substantiate its genuine activity.

6. The Ld. D.R. on the other hand relied on the order of ld. CIT(E) and expressed no objection if the case is remanded back to the file of ld CIT(E) to examine the genuineness of the activity carried on by the assessee trust.

7. We have heard the rival submissions and perused the materials available on record. Before us, the Id. A.R. of the assessee submitted that the Id. CIT(E) passed the order cancelling the registration without calling for any further details if required for granting the registration. We are of the considered opinion that for the purpose of establishing the genuineness of the activity the assessee should satisfy the Id. CIT(E) by producing/submitting the details like agreement or Memorandum of Understanding with M/s. Orchid Renewable Energy for the establishment of Oxygen Plant, the details such as where and when the oxygen plant was installed, details of the beneficiaries of the plant and the documents for having installed the plant etc or such other details as may be required by the Id. CIT(E). Before us, the Id. A.R. of the assessee submitted that one more opportunity may be granted to the assessee trust to submit all these information/documents to establish the genuineness of its activities and accordingly in the interest of Justice & fair play & as requested by the AR of the assessee, we deem fit & proper to remit the entire issue in dispute to the file of Id. CIT(E) to decide afresh in accordance with law. Needless to say, a reasonable opportunity of being heard must be granted to the assessee. We also direct the assessee to produce/submit all the necessary details/documents/record/financials/reports/information in support of its genuineness of Activities carried on by the Trust. It is ordered accordingly.

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

9. Now we take up ITA No.441/Bang/2025, wherein the assessee has raised following grounds of appeal:

10	Grounds of Appeal	Tax effect relating to each ground of appeal (see note below)
1	The Ld. CIT (Exemption) ought to have granted approval u/s. 80G of the Act after providing the necessary documents as sought in the notice and during the personal hearing.	Rs. 0
2	The order of the Ld. CIT (Exemption) is opposed to the law, facts and circumstances of the case.	Rs. 0
3	The order of the Ld. CIT (Exemption) is opposed to the various court decisions which is favoring the appellant is against the law and natural justice.	Rs. 0
4	On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the Hon'ble Commissioner of Income Tax Exemptions cancellation of the provisional approval under clause (iv) of first proviso to sub-section (5) of section 80G is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, approval should be restored. Just and proper relief be granted to the Appellant in this respect.	Rs. 0
5	On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that order of the Hon'ble Commissioner of Income Tax Exemptions rejecting the application filed by the Appellant in Form 10AB under clause (iii) of first proviso to section 80G(5) of the Income tax at, 1961 and cancelled the provisional approval u/s under clause (iv) of first proviso to sub-section (5) of section 80G is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, registration should have been granted. Just and proper relief be granted to the Appellant in this respect.	Rs. 0
6	The Ld. CIT(Exemption) has rejected the appellants application without seeking further details from the appellant which was available with the appellant.	Rs. 0
7	The Ld. CIT(Exemption) has erred in presuming that the activities are not genuine at the Granting of approval under section 80G of the Act	Rs. 0
8	The Ld. CIT(Exemption) erred in not considering the appellants submissions and detailed activity notes and other details submitted during the hearing without finding out the Deficiency and seeking the same.	Rs. 0

10. Since we have remitted the entire issue of registration u/s 12AB of the Act to the file of Id. CIT(E), we deem it fit and proper to remit this issue of approval u/s 80G of the Act to the file of Id. CIT(E) to decide afresh in accordance with law as the Id. CIT(E) had passed the order without giving sufficient opportunity of being heard. It is ordered accordingly.

11. In the result, appeal filed by the assessee in ITA No.441/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 28th July, 2025

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 28th July, 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.