

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SONJOY SARMA, JM**

ITA No. 166/Coch/2025

Good Karma Foundation Appellant
Kulayettikkara P.O., Ernakulam 682315
[PAN: AABTG6511D]

vs.

Commissioner of Income Tax (Exemption) , Kochi..... Respondent

Appellant by: Shri Radesh Bhatt, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 10.06.2025
Date of Pronouncement: 31.07.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Exemptions), Kochi dated 24.12.2024 denying grant of approval u/s. 80G of Income Tax Act, 1961 (hereinafter "the Act").

2. Brief facts of the case are that the appellant is a charitable trust registered u/s. 12A of the Act. The appellant filed application in Form 10AB on 15.06.2024 seeking approval u/s. 80G of the Act. On receipt of the said application, the learned Commissioner of Income Tax (Exemption) noticed that the appellant trust had

invested a sum of Rs. 2,52,87,500/- in commercial immovable property in violation of provisions of section 11(5) of the Act. Based on this information, the learned Commissioner of Income Tax (Exemption) formed an opinion that the activities of the trust are not genuine. Accordingly, called upon the appellant to explain the reasons as to why approval u/s. 80G should not be rejected. In response to the show notice, it is submitted that there was no bar to invest in immovable property by a trust duly registered u/s. 12A of the Act. It is further submitted that the income generated out of the commercial property shall be utilised for the purpose of the genuine objects of the trust. However, the ld. Commissioner of Income Tax (Exemption) proceeded to reject the application citing that the earlier application moved by the appellant was rejected.

3. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

4. The learned counsel for the assessee submitted that the Commissioner of Income Tax (Exemption) had rejected the application for approval u/s. 80G solely on the presumption that the immovable property was purchased with a motive to generate business income. It is submitted that the income generated out of the commercial property shall be used only for attaining the object of the trust the there is no bar that a charitable trust cannot invest in immovable property. It is further submitted that provisions of section 11(5) of the Act provide for investment in immovable

property and finally submitted, placing reliance on the following decisions that the issue of violation of section 11(5) cannot be gone into at the stage of approval u/s. 80C of Act: -

- i) *Mary Mediatrix Charitable Trust v. CIT (Exemption)* in ITA No. 264/Coch/2024 dated 30.12.2024
- ii) *DIT (exemption) v. Abdul Kalam Azad Islamic Awakening* [2013] 214 Taxman 148 (Delhi)

5. On the other hand, the learned Sr. DR supporting the order of the Commissioner of Income Tax (Exemption) submits that no interference is warranted.

6. We have heard the rival contentions and perused the material available on record. The only issue that arises for our consideration is whether the learned Commissioner of Income Tax (Exemption) is justified in rejecting the application for grant of approval u/s. 80G of the Act. On a mere perusal of the order passed by the Commissioner of Income Tax (Exemption) it would be clear that the Commissioner of Income Tax (Exemption), merely rejected the application for grant of approval u/s. 80G solely on the ground that the appellant had invested in commercial immovable property with the motive of earning rental income. Investment in immovable property is not prohibited under the provisions of section 11(5) of the Act. The income generated from said property was utilised for charitable purpose. The issue whether the appellant violated provisions of section 11(5) cannot be gone into at the stage of granting approval

u/s. 80G of the Act. As such the issue falls outside the ambit of scope of enquiry envisaged sub-section 5 of section 80G of the Act. Therefore, the reasoning of the learned Commissioner of Income Tax (Exemption) cannot be sustained in the eyes of law. In the circumstance, we remit the matter to the file of the Commissioner of Income Tax (Exemption) to grant approval u/s. 80G on being satisfied himself that all other conditions precedent for grant of approval u/s. 80G were satisfied, after due verification and after affording reasonable opportunity of hearing to the appellant.

7. In the result, the appeal filed by the assessee stands party allowed for statistical purposes.

Order pronounced in the open court on 31st July, 2025.

Sd/
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 31st July, 2025
n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

Assistant Registrar
ITAT, Cochin