

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 5791/DEL/2024 [A.Y. 2023-24]

Shree Balaji Sewa Trust
A-53, Prashant Vihar
Delhi

Vs.

The C.I.T.(E)
Delhi

PAN - ABBTS 4746 H
(Applicant)

(Respondent)

Assessee By : Shri Ved Mittal, Adv

Department By : Shri Manish Gupta, Sr. DR

Date of Hearing : 11.08.2025

Date of Pronouncement : 22.08.2025

ORDER

PER NAVEEN CHANDRA, A.M:-

This appeal by the assessee is preferred against the order of the CIT(E), Delhi dated 27.11.2024 for A.Y 2023-24.

2. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

3. The sum and substance of the solitary grievance of the assessee is that the ld. CIT(E) was wrong in rejecting the application for registration of the assessee u/s 80G of the Income-tax Act, 1961 [the Act, for short]. The assessee is also aggrieved by the action of the ld. CIT(E) in not providing opportunity the assessee to respond to the notices and submit the required information.

4. Briefly stated, the facts of the case are that the assessee "SHREE BALAJI SEWA TRUST" is a charitable trust registered under Indian Trust Act, 1882 based in Delhi, incorporated on 30-06-2020. The assessee is running a Dharamshala at Mehandipur Balaji temple, located in Dausa district of Rajasthan, a renowned pilgrimage site dedicated to Lord Hanuman in his childhood form, revered for its healing and exorcism rituals.

5. During the FY 22-23, the following TDS has been deducted by following persons:

| <u>S.N.</u> | <u>Name</u> | <u>Amount Credited</u> | <u>Amount TDS</u> |
|-------------|-----------------------------|------------------------|-------------------|
| 1. | Yatradham E service Pvt Ltd | 15,200 | 152 |
| 2. | Booking.com | 21,800 | 218 |
| 3. | Foundation to educate Girls | <u>16,500</u> | <u>1,950</u> |
| | Total | <u>53,500</u> | <u>2,320</u> |

6. It is the say of the ld. counsel for the assessee that as per Form 10AD, the ld. CIT(E) observed that the assessee is found to be engaged in commercial activity due to the TDS deducted by the above mentioned. The unintentional deduction of TDS (Rs. 1950 + Rs 218+ Rs. 152) on the charitable receipts does not justify the assumption of Trust carrying a commercial activity, whereas such amount received was applied as per the objective of the trust which was in charitable nature.

7. Further, the ld. counsel for the assessee submitted that as per the provisions of Section 80G, the CIT (E) before granting registration/refusing registration, has to satisfy himself about the objects of the trusts/institution and also no adverse comment on activities of trust except to Transaction of Rs 21800+ Rs.16500 + Rs. 15200 for which TDS was deducted (TDS=Rs. 1950 + Rs 218+ Rs.152), whereas the total receipt was of Rs.49,03,601/- during the year in question (FY 22-23). The same is negligible and should not be considered component for commercial activities.

8. The assessee submitted that the assessee is already have the registration under sec 12AA of the Act for the A.Ys 2023-24 to 2027-28 and rejecting the application for registration u/s

80G is legally incorrect and factually flawed. The ld. counsel for the assessee prayed that the same may be restored and the order of the ld. CIT(E) set aside.

9. Per contra, the ld. DR relied on the orders of the authorities below.

10. We have heard the rival submissions and have perused the relevant material on record. There is no dispute that the trust is registered under the Indian Trust Act, 1882 and the objects of the trust is to carry out general welfare activities as well as advancement of objects of general public utility. The Trust has been granted registration u/s 12AA of the Act for the A.Ys 2023-24 to 2027-28 which shows that the Revenue is satisfied about the charitable activity and nature of the Trust.

11. We find that the ld. CIT(E) rejected the application for permanent registration u/s 80G of the Act on the ground that the assessee was found to have received payments from “Foundation to Educate Girls Globally” which was not in the nature of donation but receipts from rent/commercial as TDS was deducted by the payer and therefore the CIT(E) held that the assessee is engaged in commercial activities of renting out

premises which led to the rejection of the application filed in Form 10AB for grant of registration u/s 80G of the Act.

12. We find that in the case of *Aroh Foundation Vs Commissioner of Income Tax Exemption & Anr.*, in WP(C) 4365/2021 dated 05.02.2024, the hon'ble Delhi High Court had held that mere deduction of TDS by Donor on Grants would not disentitle the NGO from sections 11 exemption. The hon'ble Delhi High Court held as under:

21. If the deductor in its Income Tax Return, under misconception, deducts TDS under [Sections 194C](#) and [194J](#) of the Act, the same would not disentitle the assessee to claim benefit under [Sections 11](#) and [12](#) of the Act unless the case of assessee is specifically hit by the Proviso of [Section 2\(15\)](#) of the Act, which is not the case here. The Proviso to [Section 2\(15\)](#) of the Act would not get attracted merely on the basis of deduction of TDS by the donor under a particular head.

In the instant case the charitable nature and activity of the assessee Trust is not under dispute u/s 2(15) of the Act. Therefore, following the ratio of the above decision, we hold that the activity of the assessee remains charitable even where the donor has deducted TDS on the payments made by it. In that view of the matter, we do not find any merit in the order of the ld. CIT(E). We, therefore, set aside the order of the Ld. CIT(E) and direct the CIT(E) to grant registration u/s 80G. The ground is allowed.

13. In the result, the appeal of the assessee in ITA No. 5791/DEL/2025 is allowed for statistical purposes.

The order is pronounced in the open court on 22.08.2025.

Sd/-

**[MADHUMITA ROY]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: AUGUST, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

| Sl No. | PARTICULARS | DATES |
|--------|---|-------|
| 1. | <i>Date of dictation of Tribunal Order</i> | . |
| 2. | <i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i> | |
| 3. | <i>Date on which the typed draft Tribunal Order is placed before the other Member</i> | |
| 4. | <i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i> | |
| 5. | <i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i> | |
| 6. | <i>Date on which the signed order comes back to the Sr. P.S./P.S</i> | |
| 7. | <i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i> | |
| 8. | <i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i> | |
| 9. | <i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i> | |
| 10. | <i>Date on which the file goes to the Supervisor (Judicial)</i> | |
| 11. | <i>The date on which the file goes for xerox</i> | |
| 12. | <i>The date on which the file goes for endorsement</i> | |
| 13. | <i>The date on which the file goes to the Superintendent for checking</i> | |
| 14. | <i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i> | |
| 15. | <i>Date on which the file goes to the dispatch section</i> | |
| 16. | <i>Date of Dispatch of the Order</i> | |