

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

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1379/Bang/2025
Assessment Year : 2025-26

M/s. Ullal Charitable Trust, 8-1-100 Ullal Complex, New Kambla Cross Road Alake, Mangalore – 575 003. PAN: AAATU1236C	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Dr. Sheetal Borker, Advocate
Revenue by	:	Shri Muthu Shankar, CIT-DR

Date of Hearing	:	02-12-2025
Date of Pronouncement	:	26-02-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the rejection order of the Ld.CIT(E) in which the application filed for an approval u/s. 80G has been denied by an order dated 31/01/2025 and raised the following grounds:

- 1. On the facts and in the circumstances of the case the learned Commissioner of income Tax (Exemptions) erred in denying the approval under section 80G(5)(iii) of the Income tax Act, 1961.*

- 2. The learned Commissioner of Income Tax (Exemptions) erred in holding that the appellant had not furnished sufficient details or proof of the activities of the trust/Institution within the meaning of section 2(15) of the*

Income tax Act, 1961 when on the same set of facts and material furnished the learned CIT(E) had granted registration under section 12AB of the Income tax Act, 1961.

3. The learned Commissioner of Income Tax (Exemptions) having satisfied with the genuineness of the trust and also having satisfied with the activities of the trust to grant registration under section 12AB of the Income tax Act, 1961 ought to have granted the approval under section 80G(5)(iii) of the Income tax Act, 1961 to enable the appellant trust to get donations for carrying out its objects.

4. The learned Commissioner of Income Tax (Exemptions) has failed to comprehend the fact that, appellant has not only having fees receipts it also has other than fees receipts, which are eligible for deduction under section 80G of the Income tax Act, 1961.

5. The learned Commissioner of Income Tax (Exemptions) has failed to comprehend the fact that, "fees receipts" is the revenue generated out of the regular activities carried by the Institution/Trust, which does not comes under the definition of Donation Received under section 80G of the Income tax Act, 1961.

6. The learned Commissioner of Income Tax (Exemptions) has wrongly assumed the chair of Appellant Trust by creating her own opinion at 6.4 of the order dated 17.1.2025 i.e., answer to (i) is "No" whereas answer to (ii) is Yes, by doing so, learned CIT(E) overlooked the fact that, the answer to (i) and (ii) may be vis a vis.

7. The learned Commissioner of Income Tax (Exemptions) while arriving at the excess of income over expenditure has grossly ignored the capital expenditure applied during the year as application of income under section 11(1) of the Income tax Act, 1961.

8. The learned Commissioner of Income Tax (Exemptions) erred in law in not allowing accumulation under section 11(1)(a) of the Income tax Act, 1961, being 15% of the gross receipts, as application of income.

9. The learned Commissioner of Income Tax (Exemptions) has failed to understand the method of computation of total income i.e., application income in Trust cases.

10. The learned Commissioner of Income Tax (Exemptions) has grossly ignored the fact that, the appellant had

granted registration under section 80G from the date of appellant's inception.

11. The learned Commissioner of Income Tax (Exemptions) was not satisfied with the existing materials furnished by the appellant for granting approval in the interest of justice and having failed to do so, the order of denial is opposed to law and liable to be cancelled.

12. For these and such other grounds that may be urged at the time of hearing, the Appellant prays that the appeal may be allowed.”

2. The brief facts of the case are that the assessee is a charitable trust and got the registration u/s. 12A of the Act. The assessee apart from the receipt of the donations, also collected fees from the students. The assessee to claim the deduction u/s. 80G of the Act, had filed an application on 10/08/2024. The Ld.CIT(E) issued notice for filing the documents. The assessee appeared and filed their income and expenditure statements for the period ended 31/03/2024, 31/03/2023 and the provisional income and expenditure statement as on 30/09/2024. The assessee also explained the fact that the assessee had collected fees and also received donations and explained that they will utilise the 80G only for the purpose of the donations received by them. The Ld.CIT(E) after going through the income and expenditure statements, had observed that the assessee had a substantial increase in its income over expenses over a period of 3 assessment years and therefore concluded that the assessee was not able to apply the resources at hand towards the charitable objects of the trust and it also indicates the the profit motive of the entity which does not augur well with the charitable motive as per the objects of the trust. The Ld.CIT(E) also observed that the assessee is receiving high fees and also observed that the assessee could not claim the fees receipts as deduction u/s. 80G of the Act and therefore approval u/s. 80G could not be granted.

3. The said rejection order is under challenge before this Tribunal with a delay of 49 days.

4. In the delay condonation application, the assessee had stated that the trustee who oversaw all the legal matters were out of station to attend some official works and therefore the appeal could not be filed in time before this Tribunal.

5. We have considered the said reason and also by considering the fact that the delay is not abnormal, in the interest of justice, we are condoning the said delay and proceeded to decide the appeal on merits.

6. At the time of hearing, the Ld.AR submitted that the assessee apart from the fee receipts also received donations which are eligible for deduction u/s. 80G of the Act and therefore the order of the Ld.CIT(E) denying the approval u/s. 80G is not correct. The Ld.AR also relied on the registration granted u/s. 12AB of the Act and submitted that the assessee had furnished several details or proof of the activities and therefore they are doing the charitable activities as per section 2(15) of the Act. The Ld.AR further submitted that simply because the assessee had received the fees receipts, along with the other donations, the provisions does not bar the assessee from getting the approval for deduction u/s. 80G of the Act.

7. The Ld.DR submitted that the financial statements would establishes the fact that the assessee is not doing any charitable activities and therefore prayed to dismiss the appeal.

8. We have heard the arguments of both sides and perused the materials available on record.

9. In the present case, the assessee has got its registration u/s. 12A of the Act wherein the assessee trust was treated as a charitable trust. At the time of granting the said registration, the authorities had verified the details and arrived a conclusion that the assessee is a genuine charitable trust and thereafter the registration u/s. 12A has been granted. Subsequent to the said registration, to claim the deduction on the donations received by the assessee, the assessee needs an approval u/s. 80G of the Act. Without

getting the said approval, the assessee could not claim the deduction and also the donors will not be interested in donating the amounts to the trust.

10. It is also an admitted fact that the assessee is running a school and collected a nominal fees from the students for imparting the education. This fees is different from the donations received by the trust. The assessee had claimed the deduction u/s. 80G of the Act on the donations received by it. All of a sudden by way of the impugned order, the Ld.CIT(E) had rejected the application filed for the approval by stating some irrelevant reasons. We found that the Ld.CIT(E) had analysed the financial statements filed by the assessee in which the assessee had shown the fees receipts as well as the donations received as separate items. The Ld.CIT(E) had presumed that the assessee had received a huge fee and therefore they are losing the character of being charitable in nature. We have also considered the submissions made by the assessee that the department after going through the various documents placed before it, had arrived a conclusion that the assessee is a charitable one and thereby granted the registration u/s. 12A of the Act. Therefore, the department has accepted that the assessee is a charitable organisation and therefore they are entitled for registration u/s. 12A of the Act.

11. That being the case, the impugned order of the Ld.CIT(E) in which he has denied the approval u/s. 80G of the Act based on the irrelevant facts is not correct. Admittedly, the assessee is running a school and received fees from the students on which the assessee had not claimed any deduction u/s. 80G of the Act. There is also no such allegation made by the department that the assessee would misuse the approval granted u/s. 80G of the Act towards the fees receipts. When that being the case, the department cannot prohibit the assessee from claiming deduction u/s. 80G of the Act on the donations received by it separately. Various financial statements filed by the assessee would establishes the fact that the fees collected by the assessee is been shown separately and the donations are shown separately in the books of accounts. If the department is not granting the approval u/s. 80G of the Act, then the registration obtained

u/s. 12A of the Act would be of no use. We, therefore of the view that unless and until it is established by the revenue that the assessee had also claimed the fees receipts as donations u/s. 80G of the Act and the genuineness of the trust is under dispute, then only, the assessee is not entitled for getting approval u/s. 80G of the Act. The Ld.CIT(E) had not pointed out any other mischief done by the assessee for denying the renewal u/s. 80G of the Act except by saying that the fees receipts do not fall under the purview of receipts u/s. 80G of the Act. The fees receipts may be a part of the total receipts and on that score, the denial of approval u/s. 80G could be made.

12. For all the foregoing reasons, we find that the impugned order of the Ld.CIT(E) is not a well considered one and also against the provisions of the Act and therefore we have no hesitation to set aside the said order. We, therefore set aside the order of the Ld.CIT(E) and direct the Ld CIT (E) to grant the approval u/s. 80G of the Act if there are no other impediments in granting such approval.

13. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 26th February, 2026.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 26th February, 2026.
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. Guard file
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore