

**आयकर अपीलिय अधिकरण, “ई” खंडपीठ मुंबई**  
**INCOME TAX APPELLATE TRIBUNAL,MUMBAI-“E”,BENCH**

सर्वश्री राजेन्द्र, लेखा सदस्य एवं संदीप गोसाई, न्यायिक सदस्य

**Before S/Sh. Rajendra,Accountant Member & Sandeep Gosain,Judicial Member**  
**आयकर अपील सं./ITA No.9142 /Mum/ 2010 ,निर्धारण वर्ष/Assessment Year-Not applicable**

Sanskardham Kelvani Mandal C/o., Sanskardham Vidyalaya Unnat Nagar, MG Road Opp. Ganapati Stores, Goregaon (W)Mumbai. <b>PAN No.AAATS 2646 G</b>	Vs.	Dy. Director of Income tax – (Exemption) Central Circle-39 Mumbai.
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(अपीलार्थी /Assessee )

(प्रत्यर्थी / Respondent)

**निर्धारिती ओर से/Assessee by**

**:Sh. Rajesh Dalal-AR**

राजस्व की ओर से/ **Revenue by**

**:Sh. Manjunatha R. Swamy-CIT-DR**

**सुनवाई की तारीख/ Date of Hearing**

**:19- 11 -2015**

घोषणा की तारीख / Date of Pronouncement

**:01.01.2016**

**आयकर अधिनियम,1961 की धारा 254(1)के अन्तर्गत आदेश**

**Order u/s.254(1)of the Income-tax Act,1961(Act)**

**लेखा सदस्य राजेन्द्र के अनुसार PER RAJENDRA, AM-**

Challenging the order dated 25.10.2010 of director of Income tax(Exemption),Mumbai (DIT-E),the assessee -trust has filed the present appeal.

**Brief facts:**

2.The assessee had filed an application for grant of certificate u/s.80G of the Act on 21.4.2009, it was accompanied with various details and was filed in prescribed Form -10G.Vide his letter,dt.22.9.10,the DIT-E directed the assessee to furnish break-up of donation and other income for verification purpose.As per the DIT(E) the assessee did not comply with the directions.He issued a reminder on 22.12.2009.The assessee filed details vide its letter dated 11.8.2010 , 23.8.2010 21.9.2010.On 11.10.2010 the DIT-E issued a show cause notice to the assessee and vide his order,dt. 25.10.2010,he held that the assessee had failed to fulfill the mandatory provisions and had contravened the provisions as laid down under Explanation to section 80G(5).Finally,he rejected the application filed by the assessee.

3.Before us, the Authorised Representative (AR)stated that DIT-E was duty bound to reject or accept the application within a period of six months of filing of application, that he had passed the order in Oct.2010 whereas the application was filed in April 2009, that the order was invalid.He referred to the judgments of Maheshwari Foundation (56 taxmann .com 393), Pujoyashri Jalaram Bapa Matoshri Virbaina Charitable Trust(55taxmann52).Departmental Representative (DR) supported the order of the DIT(E).

4.We have heard the rival submissions and perused the material before us.We find that the assessee had filed the application for grant of certificate u/s. 80G of the Act on 21.04.2009, the DIT-E had passed the order on 25.10.2010.The Rule-11AA of the Income tax Rules, 1962, (Rules) mandates that the order for rejecting or granting the certificate has to be passed within six months of filing of the application.In this case the letter was issued on 22.10.2009 to the assessee trust and it was directed to furnish certain details.In our opinion,he should have passed the order by that time. Instead of passing an order the DIT-E started making queries after a lapse of period of six months.Therefore, we are of the opinion that his order was not valid.In the case of Maheshwari Foundation (supra), the Hon'ble Karnataka High

Court has held that it is mandatory for the DIT-E to dispose the application within a period of six months. Considering the above, we are of the opinion that the DIT-E was not justified in rejecting the application filed by the assessee. We like to mention that the assessee is at liberty to file a fresh application for getting benefit of section 80G of the Act and DIT-E would decide the application on merits and in accordance with law. Effective ground of appeal filed by the assessee is allowed.

As a result, appeal filed by the assessee stands allowed.  
फलतः निर्धारिती द्वारा दाखिल की गई अपील मंजूर की जाती है।  
Order pronounced in the open court on 1<sup>st</sup> January, 2016.  
आदेश की घोषणा खुले न्यायालय में दिनांक 01 जनवरी, 2016 को की गई।

Sd/-

(संदीप गोसाई/Sandeep Gosain )

न्यायिक सदस्य/Judicial Member

मुंबई Mumbai, दिनांक Date: 01.01.2016

व.नि.स./v.Sr.PS.

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

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|---|--|
| 1. Assessee /अपीलार्थी  | 2. Respondent /प्रत्यर्थी                |
| 3. The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त,                        | 4. The concerned CIT /संबद्ध आयकर आयुक्त |
| 5. DR "E" Bench, ITAT, Mumbai /विभागीय प्रतिनिधि के खंडपीठ, आ.अ.अधि.मुंबई |  |
| 6. Guard File/गार्ड फाईल  |  |

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asst. Registrar  
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.