

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH 'A', BANGALORE  
BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER  
AND  
SMT ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER**

**ITA No.1261(Bang) 2015  
(Assessment year : NA)**

M/s Vimala Shankar Foundation,  
Vimala Shankar, No.12, 1<sup>st</sup> Cross, Road,  
Shankarapuram,  
Bangalore-560 004

**Pan No.AABTV7820N**

Appellant

Vs

The Commissioner of Income Tax (Exemption.)  
Bangalore

Respondent

**Assessee by : Shri V. Srinivasan, Advocate  
Revenue by : Dr.P.K.Srihari, Addl. CIT  
Date of hearing : 11-07-2016  
Date of pronouncement : 15.07-2016**

**ORDER**

**PER SHRI A.K.GARODIA, JM:**

This is assessee's appeal directed against the order of the Id. CIT (Exemptions), Bangalore, dated 31-07-2015 passed by him u/s 80G(5)(vi) of the IT Act, 1961.

2. The grounds raised by the assessee are as under

*"1.The order of the Ld. CIT(E) in so far as it is against the appellant, in rejecting the application and refusing to grant approval u/s 80G(5) of the Act is opposed to law, equity, weight of evidence, probabilities facts and circumstances of the case.*

*2. The Id. CIT is not justified in refusing to grant approval u/s 80G(5)(vi) of the IT Act, 1961 under the facts and in the circumstances of the appellant's case.*

*3. The ld. CIT is not justified in holding that the appellant had not furnished the required particulars and has not submitted satisfactory explanation, which remark is not true and such finding is contrary to evidence and is vitiated and therefore, the refusal to grant approval requires to be set aside.*

*4. The ld. CIT is not justified in holding that it was not possible for him to assert the genuineness of the objectives and functions of the Trust and on that alleged count rejecting the grant of approval u/s 80G(5)(vi) of the Act, under the facts and circumstances of the appellant's case and such finding is contrary to evidence and is vitiated and therefore, the refusal to grant approval require to be set aside.*

*5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the approval may be allowed and justice rendered”.*

3. It was submitted by the ld. AR of the assessee that the basis of the order of the ld. CIT(E) is this that no reply was submitted by the assessee to a query dated 08-07-2015 issued by the ld.CIT(E). In this regard, he has drawn our attention to letter dated 15-07-2015 available on pages 22 to 29 of the paper book and it was submitted that this is the reply to the letter issued by the ld. CIT(E) dated 08-07-2015.

4. At this juncture, a query was raised by the Bench regarding the copy of the letter dated 08-07-2015 issued by the CIT(E) and in reply, it was submitted by the ld. AR of the assessee that the said query letter dated 08-07-2015 is not readily available.

5. The Id. DR of the revenue supported the order of the Id. CIT(E).

6. We have considered the rival submissions and we find that as per reply letter dated 15-07-2015 available on pages 22-29 of the paper book, it is stated in the said letter that this is in reply to letter dated 08-07-2015 issued by Id. CIT (E, but in the absence of query letter dated 08-07-2015, it cannot be ascertained as to whether the reply dated 15-07-2015 is complete or not to the query letter dated 08-07-2015. Under these facts, we feel it proper to restore the entire matter to the file of the Id. CIT(E) for a fresh decision after providing adequate opportunity of being heard to the assessee. We order accordingly.

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

Order pronounced in the open court on the date mentioned on the caption page.

**Sd/-**  
**(ASHA VIJAYARAGHAVAN)**  
**JUDICIAL MEMBER**

Bangalore:

D a t e d : 15.07.2016

**am\***

**Copy to :**

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

**Sd/-**  
**(A.K. GARODIA)**  
**ACCOUNTANT MEMBER**

By order,  
AR, ITAT, Bangalore

1.	Date of Dictation .....
2.	Date on which the typed draft is placed before the dictating Member .....
3.	Date on which the approved draft comes to the Sr. P. S. ....
4.	Date on which the order is placed before the dictating Member for pronouncement .....
5.	Date on which the order comes back to the Sr. P.S. ....
6.	Date of uploading the order on website .....
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8.	Date on which the file goes to the Bench Clerk .....
9.	Date on which order does for Xerox & endorsement .....
10.	Date on which the file goes to the Head Clerk.....
11.	The date on which the file goes to the Assistant Registrar for signature on the order.....
12.	The date on which the file goes to the dispatch section for dispatch of the Tribunal order.....
13.	Date of dispatch of order.....