

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "A" : DELHI

BEFORE SHRI BHAVNESH SAINI, J.M. AND SHRI L.P. SAHU, A.M.

ITA.No.6487/Del./2018

Bharat Vikas Parishad Maharana Pratap Nyas, Flat No.157, Hewo Apartments, Sector-15, Part-II, Gurgaon, Haryana. PAN AADTB1479P	vs.	The CIT (Exemptions) (Hq.), Chandigarh.
(Appellant)		(Respondent)

For Assessee :	Shri Ved Jain, Advocate, Shri Rishabh Jain, C.A. And Miss. Umang Luthra, Advocate
For Revenue :	Shri Sanjay Goyal, CIT-D.R.

Date of Hearing :	04.02.2019
Date of Pronouncement :	06.02.2019

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Assessee has been directed against the Order of the Ld. CIT(E), Chandigarh, Dated 29.08.2018, under section 80G(5)(vi) of the Income Tax Act, 1961.

2. We have heard the Learned Representatives of both the parties and perused the material available on record.

3. Briefly the facts of the case are that an application in the prescribed form was filed for approval under section 80G(5)(vi) of the Income Tax Act, 1961. The Ld. CIT(E) noted that in this case the applicant also filed an application under section 12A of the I.T. Act did not meet the requirement for approval as mandated by Rule 11AA of the I.T. Rules. Even though, the applicant has been granted registration under section 12A recently, the real purpose as per the stated object cannot be corroborated at present given that the entity is still to redeem itself after the grant of 12A registration. The application was found premature and the same was rejected.

3. Learned Counsel for the Assessee submitted that assessee is a charitable trust and carried out various activities since inception like providing free mortuary vans free of cost to Civil Hospitals, providing free foods to the patients of civil hospitals, free water ATMs etc. The Ld.

CIT(E) granted registration under section 12AA vide Order Dated 29.08.2018 (PB-55) but declined to grant approval under section 80G of the I.T. Act, 1961. He has relied upon decision of Hon'ble jurisdictional Punjab and Haryana High Court in the case of CIT (E) vs. Sant Girdhar Anand Parmhans Sant Ashram (2018) 408 ITR 79 (P & H) in which it was held as under :

*“It was recorded by the Tribunal that since assessee had been granted exemption u/s 12AA which was in existence and in case of any violation, the same was subject to variation/withdrawal by the CIT(E), there was no logic in denying approval u/s 80G(5)(vi) of the Act. There seems no reason to differ with the view taken by the Tribunal. In case, in subsequent years, the Revenue is satisfied that the activities of assessee are not qualified for charitable purposes, it shall be open for the Department to initiate action for cancellation of registration u/s 12AA and also for passing appropriate orders regarding approval granted u/s 80G(5)(vi) in accordance with law.”*

3.1. He has also relied upon similar decision of Hon'ble jurisdictional Punjab and Haryana High Court in the case of Sonapat Hindu Educational and Charitable Society vs. CIT (2005) 278 ITR 262 (P & H) in which it was held that registration of an institution under section 12A of the Act is sufficient to of its being established for charitable purposes. Thus, registration under section 80G cannot be denied. He has also relied upon decision of the Hon'ble Delhi High Court in the case of DIT vs. Foundation of Ophthalmic & Optometry Research Education Centre 2012 (8) TMI 77 (Del.) in which it was held as under :

*“Denial of registration as charitable trust under Section-12AA (1)(B) - no charitable activity had in fact taken place since the society was a newly established one - Held that:- Considering the procedure for registration as lead in Section 12AA the statute does not prohibit or enjoin the Commissioner from registering Trust solely based on its objects, without any activity, in the case of a newly registered Trust. The statute does not prescribe a waiting period, for a trust to qualify itself for registration.*

*When the society/trust of assessee itself was formed on 30.05.2008 with the money available with the trust, one cannot expect them to do activity of charity immediately and because of that situation the authority cannot come to a conclusion that trust was not intending to do any activity of charity. In such a situation the objects of the trust have to be taken into consideration by the authority and the objects of the trust could be read from the trust deed itself - in favour of the assessee.”*

3.2. He has submitted that while granting approval under section 80G, the Commissioner is required to satisfy the prescribed conditions which he has not doubted in the present case. He has, therefore, submitted that approval under section 80G may be granted to the assessee.

4. On the other hand, Ld. D.R. relied upon the impugned Order.

5. After considering the rival submissions, we are of the view that Order under section 80G(5) denying approval to the assessee cannot be sustained in Law. It is not in

dispute that assessee has been granted registration under section 12AA of the I.T. Act, 1961, by DIT (E) vide Order Dated 29.09.2018. The Ld. CIT(E) was satisfied with the objects and activities of the assessee that it is meant for charitable purposes, therefore, different view cannot be taken while refusing the grant of approval under section 80G(5) of the I.T. Act. The Ld. CIT(E) did not doubt the objects of the assessee and did not mention anything if assessee has violated any of the conditions of Section 80G(5) of the I.T. Act. Considering the totality of the facts and circumstances of the case in the light of above decisions relied upon by the Learned Counsel for the Assessee, we are of the view that assessee is entitled for approval under section 80G(5) of the I.T. Act, 1961, from the date of application. We, accordingly, set aside the impugned Order and direct the Ld. CIT(E), Chandigarh, to grant approval to the assessee under section 80G(5)(vi) of the Income Tax Act, 1961, from the date of application.

6. In the result, appeal of Assessee is allowed.

Order pronounced in the open Court.

Sd/-  
(L.P. SAHU)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 06<sup>th</sup> February, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'A' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi