

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI ANIL CHATURVEDI, AM AND
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No. 1696/PUN/2019

Ashwini Sahakari Rugnalaya
Ani Sanshidhan Kendra,
Sr. No.7107, Tank Plot No.180,
North Sadar Bazar, Solapur,
Pin-413003
PAN : AAAJK0041K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax (Exemption)
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte
Revenue by : Shri B. Kishore

सुनवाई की तारीख / Date of Hearing : 09.01.2020
घोषणा की तारीख / Date of Pronouncement : 09.01.2020

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of the Ld.CIT (Exemptions), Pune dated 28.03.2019 passed u/s.80G(5)(vi) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') as per the grounds of appeal on record.

2. The only grievance of the assessee is with regard to the issue of exemption u/s.80G of the Act.

3. The facts on record states that an application in Form 10G for approval of the Trust/Institution was filed on 06.01.2017 requesting for granting of exemption u/s.80G of the Act before the Ld. CIT(Exemptions), Pune. Thereafter, the order dated 28.03.2019 was passed wherein the Ld. CIT(Exemptions) had denied to grant exemption u/s.80G of the Act to the assessee Trust in absence of any documentary evidences and other papers being not filed before the Department demonstrating the genuineness of charitable activities claimed to be carried out by the assessee Trust. Thereafter, vide order dated 28.03.2019, the Ld. CIT(Exemptions) had rejected the approval of the assessee u/s.80G (5)(vi) of the Act.

4. The Ld. AR of the assessee before us pointed out that vide order dated 30.03.2017 i.e. prior to this rejection of application, the assessee Trust had already got approval u/s.80G (5)(vi) of the Act from 30.03.2017 till it is withdrawn. The Ld. AR therefore contended that once approval u/s.80G of the Act has been granted and it is not being withdrawn till date, there is no question of rejection of application u/s.80G of the Act vide order dated 28.03.2019 which therefore becomes redundant.

5. The Ld. DR sought time to verify the contentions of the Ld. AR and submitted on record that he had sent letter to the Ld. CIT(Exemptions)' Office, Pune clarifying the entire situation which is made part of this order:



OFFICE OF THE

COMMISSIONER OF INCOME TAX, ITAT-I, PUNE

2nd floor, Mah Jeevan Pradhikaran Bldg,
Near Saint Mary High School
463, Stavely Road, Pune-411 001.

Tel. : 26347060

Fax : 26344622

No.Pn./CIT(ITAT)-I/ASR/19-20/247

Date: 06.01.2020

To,
The Commissioner of Income Tax(Exemption)
Pune

Sir,

Sub :Appeal No.ITA No.1696/PUN/2019in the case of Ashwini
Sahakati Rugnalaya Ani Sanshodhan Kendra before
Hon'ble 'A' -Bench ITAT, Pune-reg.

आयकर आयुक्त, (छूट), पुणे

Commissioner of Income Tax
(Exemptions), Pune

Please refer to the above.

02. The above appeal filed by the assessee came up for hearing on 06.01.2020 before the Hon'ble 'A' Bench of the ITAT, Pune.

03. During the proceedings the Hon'ble Representative of the assessee stated that the application in Form 10D dated 06.01.2017 for approval of Trust/Institution of 80G of Income Tax was e-filed on 09.01.2017. The Ld.CIT(Exemption) vide order dated 28.03.2019 has rejected the application of the assessee, as there was no compliance to the notice.

04. Further, during the Tribunal proceedings the Hon'ble Representative of assessee pointed out that the Ld.CIT(Exemption) vide earlier order dated 30.03.2017 had already given approval to the assessee for the benefit of deduction of Sec.80G from 30.03.2017 till it is been withdrawn. Therefore, it was argued that the latter order passed by the Ld.CIT(Exemption) dated 28.03.2019 is not valid in law. Further more, to support his argument the assessee furnished a letter dated 02.02.2019 wherein he has informed that the office of the CIT(Exemption) about the order dated 30.03.2017 and about the approval for sanction of 80G having been granted from 30.03.2017 till it is withdrawn.

05. You are therefore, requested to kindly clarify, whether the order dated 28.03.2019 rejecting the assessee's application for grant of 80G is valid or not, with reasons.

06. The Hon'ble Tribunal of 'A' Bench has posted this matter on 08.01.2020. You are requested to send your reply by 07.01.2020.

Encl.: As above.

(B Kishore)
Commissioner of Income Tax
ITAT-I, Pune.

Copy to :

1. The Sr.(DR), ITAT, Pune - with a request to co-ordinate with office of the CIT(Exmption), Pune.

o/c
Commissioner of Income Tax
ITAT-I, Pune.

Thereafter, one reply had come from the Ld. CIT(Exemptions), Pune dated 07.01.2020 which is also made part of this order:



OFFICE OF THE
COMMISSIONER OF INCOME TAX (EXEMPTIONS), PUNE,
Room No. 319, 3rd Floor, C Wing, Shankar Sheth Road,
PMT Building, Swargate, Pune - 411 037

No.PN/CIT(Exempt.)/Appeal/2019-20/

Date: 07-01-2020

To

✓ The Commissioner of Income Tax
ITAT-1, Pune

Sir,

Sub: Appeal No.ITA No.1696/PUN/2019 in the case of Ashwini Sahakari Rugnalaya Ani Sanshodhan Kendra before Honble 'A' Bench ITAT, Pune --- Regarding.

Ref: Letter No.Pn/CIT(ITAT)-I/ASR/19-20/747, dated 06-01-2020 of the CIT, ITAT-1, Pune

A kind reference is invited to the above.

2. It is noticed that the earlier order issued in this case is of 30-03-2017. Since, the matter is pertaining to almost 3 years back, the record needs to be traced out. I am, therefore, directed to request you to kindly seek more time in this case from the Hon'ble ITAT to allow this office to trace out the record and offer comments in the matter.

Yours faithfully,

sm
(SUNIL MEHETRE)

Income Tax Officer(Exemptions)(HQ), Pune
for Commissioner of Income Tax(Exemptions) Pune

Copy the Sr.(DR.), ITAT, Pune for kind favour of information.

ITO(E)(HQ), Pune

The Ld. DR therefore, submitted that in absence of any specific findings, it cannot be said that the approval u/s.80G of the Act once granted to the assessee was withdrawn and in all probabilities, it is still continuing.

6. We have perused the case records and heard the rival contentions. We find that vide order dated 28.03.2019, the Ld. CIT(Exemptions) had rejected the approval of exemption u/s.80G of the Act to the assessee for the reason that relevant documentary evidences were not filed stating the genuineness of charitable activities conducted by the assessee. However, we also find that vide order dated 30.03.2017, the assessee Trust has already got approval u/s.80G(5)(vi) of the Act from the Ld. CIT(Exemptions) which is still continuing. This fact has not been denied by the Ld. DR nor any material contradicting to these facts were placed on record by the Revenue Authorities. Therefore, we are of the considered view, once approval of exemption u/s.80G(5)(vi) of the Act has been granted by the Department to the assessee Trust, it has not been withdrawn and it is still continuing. Therefore, the order dated 28.03.2019 is redundant in law as well as in facts.

7. In the result, **appeal of the assessee is allowed.**

Order pronounced on 09th day of January, 2020.

Sd/-
ANIL CHATURVEDI
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 09th January, 2020.

SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Exemptions), Pune.
4. The Addl. CIT (Exemption), Pune.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	09.01.2020	Sr.PS/PS
2	Draft placed before author	09.01.2020	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		