



2025:CGHC:37156-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 30 of 2019

Commissioner Of Income Tax, Aayakar Bhawan Civil Lines, Raipur
Chhattisgarh

... Appellant

versus

M/s Adharshila Shikshan Sangh, 3rd Floor, Ahirwad Tower, G E Road,
Raipur Chhattisgarh., District : Raipur, Chhattisgarh

... Respondent

For Appellant	:	Mr. Ajay Kumrani, Advocate
For Respondent	:	Mr. Sumesh Bajaj alongwith Mr. Rishabh Bajaj, Advocates

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

30.07.2025

1. Heard Mr. Ajay Kumrani, learned counsel for the appellant. Also heard Mr. Sumesh Bajaj along with Mr. Rishabh Bajaj, learned counsel appearing for the respondent.
2. The substantial question of law involved, formulated and to be answered in this appeal preferred by the appellant is as under:-

“Whether on facts & circumstances of the case, ITAT is correct in directing that approval u/s 80-G of Act to be allowed only due to existing of approval u/s 12 AA, irrespective of the finding of the CIT that the society is engaged in commercial activities and cannot be considered as charitable?”

3. The necessary facts of the case are that the assessee / respondent is a Society who filed an application for grant of approval under Section 80G of the Income Tax Act, 1961 (hereinafter called as ‘the Act’) before the Commissioner of Income Tax, Raipur (hereinafter called as ‘CIT’) on 28.02.2014. A report in this context was called for from the Assessing Officer about the genuineness of the Society and its activities. An opportunity was provided to the respondent Society by issuing the letter dated 18.07.2014 to produce the copies of audited accounts for last three years and also to produce original documents and proof of charitable activities of the respondent. Shri Pawan Agrawal and Shri Dipesh Sancheti attended from time to time and filed written submissions. On 6.8.2014 the respondent Society was asked to explain:

(i) How vocational training can be considered as education within the meaning of Section 2(15) of the Act.

(ii) How the activities can be considered charitable as fees is being charged and substantial amount is received from Sikkim Manipal University.

(iii) How rent received by the society can be considered as charitable.

The respondent has filed details from time to time. These details are basically regarding work done by the Society. However, regarding charitable work done by the respondent, it insists that it is in the field of education. The respondent has further submitted that if the respondent get registration under Section 80G of the Act, it will be able to get donations for doing charitable work in a meaningful way.

4. The Divisional Commissioner of Income Tax-1(1), Raipur in the report dated 8.8.2014 stated that the Society is engaged in establishment of colleges of different spectrum such as Engineering, Dental, Commerce, Management etc. The following points were observed:

(i) The nature of work done by the assessee is not strictly adhering to its object, for example the fact that it receives a fee for being a center in Chhattisgarh for Sikkim Manipal University (SMU) is not adhering to its objects and the same is nowhere mentioned in the objects.

(ii) The assessee was asked to explain the charitable activities carried out by the society for last three years. They explained about a hostel that they run for the people from Natal-affected districts. However, it is observed that the trust is into providing skill-development courses to various government organizations, these Government organizations

reimburse these expenses to the society and the society also receives a fee for conducting these courses. Therefore, this cannot be considered as charitable work done by them. Hence, the DCIT-1(1), Raipur did not recommend for approval under Section 80G of the Act as the society was not doing any charitable work.

5. The CIT, Raipur vide order dated 25.08.2014 rejected the application filed by the assessee / respondent for approval under Section 80G of the Act stating that the respondent Society is running its institutes on commercial lines, the Society has taken huge loans from banks for infrastructure, the Society has let out its building on commercial lines to M/s Poddar Education Network Pvt. Ltd. and M/s Poddar Education Society, Mumbai. If the trust has several objects, some of which are charitable and others are non-charitable and the trustees have unfettered discretion to apply the income to any of the objects, the whole claim for exemption would fail and no part of the income would be exempted from tax. The respondent Society is engaged in commercial activities and cannot be considered as charitable.
6. Being aggrieved with the order passed by the CIT, the society / respondent filed an appeal before the Income Tax Appellate Tribunal, Raipur Bench, Raipur (hereinafter called as 'ITAT') and learned ITAT allowed the appeal filed by the assessee / respondent vide order dated 15.01.2019 and set aside the order of learned CIT and directed for grant of approval to assessee /

respondent under Section 80G of the Act. Hence, this appeal.

7. Learned counsel for the appellant submits that the order passed by the ITAT dated 15.01.2019 is bad in law and contrary to the facts and circumstances of the case and suffers from perversity. Learned ITAT failed to appreciate that the Society is engaged in providing vocational education for fee. The work done by the Society cannot be considered as education as it is very different from formal education envisaged in Section 2(15) of the Act. He further submits that learned ITAT failed to appreciate that developing the knowledge, skill and mind and character of the students by normal schooling is considered as education. The word 'education' has been used in Section 2(15) of the Act in the sense of systematic instruction, schooling or training, and not in the wide and extended sense according to which every acquisition of further knowledge constitutes education. Learned ITAT further failed to appreciate that publishing newspapers and magazines is not 'education'. Establishment of technical, industrial and commercial concerns, institutions etc. imparting any type of training or providing employment to persons cannot be considered as education. He also submits that learned ITAT also failed to appreciate that following clause of its agreement with SMU clearly establishes that it is in the nature of a coaching institute. He contended that learned ITAT failed to appreciate that running of a private coaching institute for the purpose of training the students to appear at some specified examinations upon taking specified

sum from the trainees would not bring the assessee running such institute within the provisions of Section 2(15) of the Act. He further contended that learned ITAT did not controvert or negate the grounds on which the approval was denied by the the CIT. As such, the appeal deserves to be allowed and substantial question of law deserves to be answered in favour of the appellant and against the respondent.

8. On the other hand, learned counsel appearing for the respondent / assessee supports the order passed by learned ITAT and submits that the donee was duly registered under Section 12A(a) of the Act and yet the benefit under Section 80G(5) was rejected holding that the activities cannot be considered to be charitable. He further submits that benefits under Section 80G of the Act cannot be denied if registration under Section 12AA is intact. He also submits that as long as the registration under Section 12AA is intact there appears to be no logic denying approval under Section 80G(5)(vi) of the Act and as long as the registration under Section 12AA is in existence, further enquiry about the genuineness of the activities and the purpose being charitable cannot be gone into by the Department. He also contended that the registration has been renewed till Assessment Year 2026-27. As such, the appeal deserves to be dismissed. He relied upon the judgment of the Gujarat High Court in the matter of **Hiralal Bhagwati v. Commissioner of Income Tax, 2000 SCC OnLine Guj 441**, the judgment of the Punjab and Haryana High Court in

the matter of **Commissioner of Income-Tax (Exemptions) v. Sant Girdhar Anand Parmhans Sant Ashram**, 2018 SCC OnLine P&H 7109, the judgment of the Supreme Court in the matter of **Assistant Commissioner of Income Tax v. Surat City Gymkhana**, (2008) 14 SCC 169 and the judgment of the Gujarat High Court in the matter of **Ahmedabad Urban Development Authority v. Deputy Director of Income-Tax (Exemption)**, (2011) 335 ITR 575.

9. We have heard learned counsel appearing for the parties, perused the impugned order and other documents appended with appeal.
10. In **Hiralal Bhagwati** (supra), the Gujarat High Court has held as under:-

“18. It is also required to be noted that once the registration under section 12A(a) of the Act is granted, the grant of benefit cannot be denied. The Income-tax Officer was not justified in refusing the benefits which would otherwise accrue under the registration. If there was no registration, as contemplated under section 12A(a) read with rule 17A, the Revenue would have been justified in making a submission that the benefit cannot be granted, but where the application for registration is submitted and the registration has been granted, the benefit cannot be denied on the ground that the scheme is not for the benefit of public at large.

25. Learned counsel submitted that as it is meant for

a restricted class, the provisions will not apply and, therefore, the special civil application should be rejected. In our opinion, considering the decisions of the apex Court, referred to hereinabove, and considering the provisions of the Act, the submissions made on behalf of the Revenue have no merits. It must be held that the respondent No. 2 has erred in denying the benefits under the Act. So far as the penalty proceedings are concerned, as a necessary corollary, the same must be quashed and set aside.”

11. In **Sant Girdhar Anand Parmhans Sant Ashram** (supra), the Punjab and Haryana High Court has held as under:-

“6.....Accordingly, it was recorded by the Tribunal that since the assessee had been granted exemption under section 12AA of the Act 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 under section 80G(5)(vi) of the Act. We do not find any reason to differ with the view taken by the Tribunal. Needless to say, in case, in subsequent years, the revenue is satisfied that the activities of the respondent-assessee are not qualified for charitable purposes, it shall be open for the department to initiate action for cancellation of registration under section 12AA of the Act and also for passing appropriate orders regarding approval granted under section 80G(5)(vi) of the Act in accordance with law. ”

12. In **Surat City Gymkhana** (supra), the Supreme Court has held as

under:-

“5. On a perusal of the judgment of the Gujarat High Court in the case of Hiralal Bhagwati (supra), we now find that Question 'B' is also concluded by the said judgment (refer to 1st paragraph of page ITR p.196). Since the Revenue did not challenge the decision in the said case, the same has attained finality. Question 'B', therefore, is to meet the same fate as Question 'A' as this Court had declined to grant leave in respect of Question 'A' on the ground that the Revenue did not challenge the correctness of the decision in the case of Hiralal Bhagwati (supra). It appears that the fact, that Question 'B' was also covered by the aforementioned judgment, was not brought to the notice of their Lordships and, therefore, leave granted was restricted to question 'B'”

13. In **Ahmedabad Urban Development Authority** (supra), the Gujarat High Court has held as under:-

“11. Applying the ratio enunciated as aforesaid to the facts of the present case, it is apparent that while framing Assessment Order on 30-12-2009 it was not open to the Assessing Officer to ignore Certificate of Registration dated 23-10-2003 granted under Section 12-AA of the Act by Director of Income Tax (Exemption), Ahmedabad. Therefore, on this limited count the Assessment Order appears to be without jurisdiction and the demand in pursuance thereto could not have been sought to be recovered. The respondent was therefore duty bound to stay

recovery of the demand raised pursuant to Assessment Order dated 30-12-2009 for Assessment Year 2007-2008 till disposal of the First Appeal which is already pending before First Appellate Authority.”

14. In the present case, learned ITAT while allowing the appeal and setting aside the order of learned CIT has held as under:-

“6. We have heard the rival submissions and perused the material available on record. The issue in present grounds is with respect to rejection of application u/s. 80G of the Act. Before us, the Ld. A.R. has submitted that assessee has been granted registration u/s. 12AA of the Act and the registration continues till date and the aforesaid registration has not been cancelled by the Commissioner of Income Tax. The aforesaid contention of the Ld. A.R. has not been controverted by the Revenue. We find that the Agra Bench of the Tribunal in the case of Dr. Gyanendra Goel Foundation Vs. Commissioner of Income Tax (supra) after relying on the decision of Hon'ble Gujarat High Court in the case of Hiralal Bhagwati Vs. Commissioner of Income Tax (supra) in similar circumstance has held that when the Commissioner of Income Tax has granted registration u/s. 12AA after examining genuineness of activities of Trust, and the registration granted has not been revoked or cancelled then it is not proper for Commissioner of Income Tax to reject application of Trust for benefit of exemption u/s. 80G by holding that the activities of the Trust were not genuine.

7. Before us, the Revenue has not pointed out any

contrary binding decision nor has placed any material on record to demonstrate that the aforesaid decision of Agra Bench of Tribunal has been set aside by the higher judicial forum. We are therefore, following the decision of Agra Bench of Tribunal and for similar reasons hold that in the present case the Commissioner of Income Tax was not justified in rejecting the application of assessee. We therefore set aside the order of LD. CIT and direct the granting of approval to assessee u/s. 80G of the Act. Thus the grounds of the assessee are allowed.

8. In the result, the appeal of the assessee is allowed.”

15. From perusal of the impugned order, it appears that learned ITAT has held that Revenue / appellant herein has not pointed out any contrary binding decision nor has placed any material on record to demonstrate that the aforesaid decision of Agra Bench of Tribunal has been set aside by the higher judicial forum and following the decision of Agra Bench of Tribunal learned ITAT held that in the present case the Commissioner of Income Tax was not justified in rejecting the application of assessee / respondent herein and set aside the order of learned CIT and directed for grant of approval to assessee under Section 80G of the Act.
16. Considering the submissions advanced by learned counsel appearing for the parties, perusing the order passed by learned ITAT as also the order passed by learned CIT and in view of law laid down the Supreme Court, High Court of Gujarat and High

Court of Punjab and Haryana in the above-stated judgments (supra), we are of the considered opinion that learned ITAT while allowing the appeal of the assessee / respondent herein and setting aside the order of learned CIT has not committed any illegality or irregularity. As such, the substantial question of law is answered in favour of the respondent and against the appellant.

17. For the foregoing reasons, the appeal being devoid of merit is liable to be and is hereby **dismissed**.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Head-Note

As long as the registration under Section 12AA of the Income Tax Act, 1961 is in existence, further enquiry about the genuineness of the activities and the purpose being charitable cannot be gone into by the Income Tax Department.