



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRICHANDRA MOHAN GARG, JUDICIAL MEMBER
AND LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.384/CTK/2018

Sri Guru Nanak Devji Religious & charitable Trust, Plot No.M/A-45, OSHB Colony, Puri-752001	Vs.	CIT (Exemptions), Hyderabad
PAN/GIR No.AAITS 6466 C		
(Appellant)	..	(Respondent)

Assessee by : Shri P.R.Mohanty, AR
Revenue by : Shri M.K.Gautam, CIT DR

**Date of Hearing : 10 /3/ 2021
Date of Pronouncement : 24/5/2021**

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the CIT(E), Hyderabad dated 29.6.2018 dismissing the application of applicant seeking approval under section 80G(5)(vi) of the Income tax Act, 1961.

2. The applicant-assessee is aggrieved by the order of the Id CIT (E), Hyderabad in rejecting grant of approval of exemption u/s.80G(5)(vi) of the Act. As per Id Counsel of appellant the Id CIT(E) rejected its application despite fulfilling all the conditions for grant of approval of exemption.

3. Brief facts of the case are that the assessee trust was granted registration u/s.12A of the Act on 22.8.2017. The assessee filed an

application in the prescribed form 10G on 22.12.2017 seeking approval u/s.80G of the Act before the Id CIT(E). However, the Id CIT (E) rejected the application of the assessee on the ground that the main object of the assessee trust is to establish, construct, maintain and run a Gurudwara at Puri and Nayagarh providing for regular daily seva puja according to the Sikh religious custom, tradition, therefore, the activities of the trust is religious and violating the provisions of section 80G(5)((iii) of the Act.

4. Before us, Id counsel for the assessee submitted that the assessee trust being a religious charitable public trust, a place for worship and public welfare and it fulfils all the conditions for grant/approval of exemption u/s.80G(5)(vi) of the Act. Ld counsel submitted that the activities of the trust includes free distribution of food packers & drinking water by the trust every year on the occasion of Sri Jagannath Rath Yatra at Puri, distribution of free meals three times a day to the hundred of pilgrims visiting Puri, maintaining a children park in 2 acres of land for play and take joy riders every day free of cost, and many others. He submitted that the Id CIT(E) rejected the application on the main ground that the trust is for religious purposes without considering the main activities of the trust, which are charitable.

5. Ld counsel also produced agreements dated 24.12.2014 and 11.11.2016 entered into between the Puri Municipality and the assessee trust for establishing children park and plantation for the all-round

development of children of Puri city. Ld counsel also produced balance sheet, income and expenditure account, receipt and payment account for the period 1st April to 31st March, 2019 as well as auditor's report. He submitted that the Id CIT (E) rejected the grant of approval u/s.80G without considering the above books of account. He submitted that when the assessee is continuing registration u/s.12A of the Act and the main purpose of the assessee trust is charitable, the grant of approval u/s.80G(5)(vi) cannot be rejected.

6. In support of his contention, Id counsel for the assessee relied on the following decisions:

- i) Shiv Mandir Devsttan Panch Committee Sanstan, Nagpur in ITA No.223/Nag/2009 order dated 11.10.2012.
- ii) Jan Sewa Jagriti Munch Society vs CIT in ITA No.4613 & 4614/Del/2014 order dated 17.11.2015.
- iii) Maharaja Aggarsain Charitable Trust vs CIT (Exemptions) in ITA No.1073/Chd/2018 order dated 17.10.2017
- iv) Shri Bair Singh Ji Narayan Singh Ji Memoraial Sansthan vs CIT (Exemptions) in ITA No.910/JP/2018 order dated 31.12.2018
- v) Samekit Mahila Evam Bal Vikas Sansthan vs CIT Exemptions) in ITA No.666/Lkw/2017 order dated 16.11.2018.

7. Replying to above, Id CIT DR submitted that the since the assessee trust is engaged in the religious activities, violating the provisions of section 80G(5)(iii) of the Act, thus, the Id CIT (E) has rightly rejected the grant of approval u/s.80G(5)(vi) of the Act.

8. We have heard the rival submissions and perused the order of the Id CIT(E), Hyderabad. We find that the Id CIT(E) has rejected the application of the assessee trust on the ground that the assessee is engaged in religious activities. The relevant observations of Id CIT(E) reads as follows:

“2. The assessee is a religious trust. As seen from the Trust Deed, the main object i.e. to establish, construct, maintain and run a Gurudwara at Puri providing for regular daily seva puja according to the Sikh religious custom, tradition established in India. It is running a Gurudwara in village Nayagaon. The Trust’s activities include religious activities and violating the provisions of section 80G(5)(iii) of the Act. Hence, the Trust is not eligible for approval u/s.80G(5)(vi) of the Act having regard to the provisions of sub-rule (2) to Rule 11AA of Income tax Rules, 1962.

3. In view of the above facts, the Trust cannot be granted approval u/s.80G(5)(vi) of the Act. Hence, the said application in Form 10G filed by the applicant is hereby reject.”

9. From the above noted observations and findings of Id CIT(E), we note that the only allegation and basis taken by him for denying approval and registration u/s 80G of the Act is that the Trust’s activities includes religious activities and violating the provisions of section 80G(5)(vi) of the Act. Clause (iii) of sub-section (5) of Section 80G provides that “*the institution or fund is not expressed to be for the benefit of any particular religious community or caste*”.

10. We observe that for the purpose of grant of approval u/s 80G, what is to be seen by the Commissioner is that the institution or fund seeking approval is established for charitable purpose and is genuinely carrying out the activities of the institution or funds and further that it fulfills all the

conditions laid down in clauses (i) to (v) of section 80G(5) of the Act. The conditions specified in the section 80G are primarily to the effect that the Commissioner has to ensure that the Fund or Institution seeking approval is appropriately constituted as specified in sub clause (v), is not for the benefit of any particular religious community or caste and is formed for the purpose of and is genuinely carrying out charitable activities. The Commissioner has to record the fulfillment of all the conditions in writing and thereafter grant approval. In this case, the CIT(E) had not considered the application of the assessee in accordance with that prescribed under the Act and the Rules read alongwith it and rejected the application solely on the ground that the assessee trust is engaged for religious purposes. There is no finding in the entire order vis-a-vis the genuineness of the activities carried out by the applicant/assessee. From the records available in the APB and various photographs filed before us, it is observed that the assessee trust has provided foods to the pilgrims and tourists visiting Puri without any discrimination based on gender, caste, creed or religious and also carried out the development of park and plantations for children and citizens of puri, relief and rehabilitation work in Puri during Fani cyclone, which itself proves that the activities of the trust is charitable and not for any particular religion or disciples of a particular religion.

11. Similar issue was placed before ITAT Nagpur Bench for adjudication in the case of Shiv Mandir Devsttan Panch Committee Sanstan(supra), as

relied by Id counsel for the assessee and the Co-ordinate Bench in para 10 to 13 held thus:

10. Now coming to the question whether the assessee trust has violated the conditions as laid down in clause (iii) of section 80G(5), we reproduce this clause which reads as under :

“(iii). the institution or fund is not expressed to be for the benefit of any particular religious community or caste.”

This clause stipulates that the Institution or the Trust must not be for the benefit of any particular religious community or caste. The words “religious community” means the group of people having a common religion or faith. The word “religion” means the belief in and worship to a superhuman controlling power, specially the personal god or gods, a particular system of faith and worship. It means the trust should not be for the benefit of any particular group of persons having the common belief in worshipping of superhuman controlling power or having common system & faith and worship. If the trust is for the benefit of any particular religious community, it would include the advancement, support or propagation of a religion and its tenants, it could be said that a trust has violated the condition No. (iii) of section 80G(5). The objects as has been pointed out by CIT, nowhere talks of advancement, support or propagation of a particular religion, worshipping of Lord shiva, hanumanji , goddess Durga and maintaining of temple, in our opinion, cannot be regarded for the advancement support or propagation of a particular religion. No evidence or material was placed on record or brought before us by the learned DR which may prove that these object relate to a particular religion. No doubt the DR argued that it relate to Hindu Religion but in our opinion it is not so. Lord shiva, Hanumanji, goddess Durga does not represent any particular religion, they are merely regarded to be the super power of the universe.

11. In the case of Commissioner of Hindu Religious and Charitable Endowments Madras vs. Sri Lakshmindra Thirtha Swamiar 1954 SCJ335, Religion has been expressed to mean a matter of faith with individuals or communities and it is not necessarily theistic. There are well known religions in India, like Buddhism and Jainism, which do not believe in God or in any intelligent first cause. A religion undoubtedly has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well being, but it will not be correct to say that religions is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept, but it might prescribed rituals and observances, ceremonies and modes of worship which are regarded as integral parts of a religion, and these forms and observances might extend even to matters of food and dress. No material or evidence has been brought on record by the department which may prove that any person coming, worshipping and maintaining the temple has to follow a particular code of ethical rules and

has to carry out the prescribed rituals and observances, ceremonies and modes of worship. The entry is not restricted to a particular group of persons. Anybody whether want to worship or not and want to maintain or not can come to the temple and avail of all the facilities available to the public at large. Therefore, these objects cannot be regarded to be the religious objects. In our opinion, until and unless the activities for which the trust is established, involve the activity religious purpose, it cannot be said that the assessee has not complied with the condition No. (iii) enumerated u/s. 80G(5) of the Act..

12. Even we noted that all the building maintenance expenses, free food expenses and festival , prayer and daily expenses cannot be regarded to be the one incurred for religious object ,even if the object is regarded to be religious one. It is not denied that in the building the assessee was carrying yoga centre , tailoring training centre as well as food for the needy and optical centre for the poor.

13. Explanation 3 to section 80G(v) states that "in this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature." This explanation takes note of the fact that an institution or fund shall be for a charitable purpose and may have a number of objects. If any one of these objects is wholly or substantially wholly of a religious nature, the Institution or Funds falls outside the scope of section 80G and the donation to it will not make the donor entitled for the deduction u/s. 80G. The objects as per Explanation must be wholly or substantially whole of which must be of religious nature. The assessee has submitted all the evidence including the objects and how the expenditure has been incurred by it. The onus, in our opinion, gets shifted on the Revenue to prove that the assessee-trust is wholly or substantially for the religious purpose. There is no allegation on the part of the revenue that the whole or substantially whole of the object of the trust is to propagate or advance support to a particular sect. We may observe that Hinduism is a way of life of a civilized society. It as such is not a religion. In this regard we rely on the case of T T Kuppaswamy Chettiar Vs. State of Tamil Nadu (1987) 100 LW 1031 in which it was held " The word "Hindu" has not been defined in any of the texts nor in judgment made law. The word was given by British administrators to inhabitants of India, who were not Christians, Muslims, Parsis or Jews. The alleged Hindu religion consists of four castes Brahmins, kshatriyas, vaishyas and sudras belonging ultimately to two schools of law, mitaksharas and dayabhaga. There is, however, no religion by the name 'Hindu'. It only shows that so called Hindu religion has been called for convenience." CIT must be aware of that the Hindu consists of a number of communities having the different gods who are being worshipped in a different manner, different rituals, different ethical codes. Even the worship of god is not essential for a person who has adopted Hinduism way of life. Thus, Hinduism holds within its fold men of divergent views and traditions who have very little in common except a vague faith in what may be called the fundamentals of the Hinduism. The word

'community' means a society of people living in the same place, under the same laws and regulations and who have common rights and privileges. This may apply to Christianity or moslem but not to Hinduism. Therefore, it cannot be said that Hindu is a separate community or a separate religion. Technically Hindu is neither a religion nor a community. Therefore, expenses incurred for worshipping of Lord Shiva, , Hanuman, Goddess Durga and for maintenance of temple cannot be regarded to be for religious purpose. Under these facts and circumstances, we are of the view that the CIT is not correct in law in not allowing the approval to the assessee trust u/s. 80G of the Act. We accordingly, set aside the order of the CIT and direct the CIT to grant approval to the assessee-trust u/s. 80G(5)(vi) of the Act.

12. In the present case, the Id counsel for the assessee has successfully demonstrated that the applicant/appellant trust is not conducting activities only towards Sikhs but also for the benefit of all human beings belong to all religious community and all castes without any discrimination and not working for the benefit of a particular community. This order was followed by ITAT Delhi in the case of Jana Sewa Jagriti Munch Society (supra) as also relied by the Id counsel for the assessee.

13. It is also a contention of Id counsel for the assessee based on the order of ITAT Lucknow Bench in the case of Samekit Mahila Evam Bal Vikas Sansthan(supra), wherein, referring to the judgment of Hon'ble High Court of Gujarat in the case of Hiralal Bhagwati vs CIT, 246 ITR 188 (Guj) and order of ITAT Agra Bench in the case of Dr.Gyanendra Goel Foundation, Maa Saraswati Hospital vs CIT (Exemptions) in ITA No.173/Agr/2017, the Co-ordinate Bench of the Tribunal held as follows:

"7. Heard. In 'Hiralal Bhagwati' (Supra), rightly relied on by the assessee, it has been held that once registration 12A of the Act stands granted, the application u/s 80G(5) cannot be rejected. The Agra Bench of the ITAT has followed this legal position vide order dated 08.03.2018, passed in 'Dr. Gyanendra Goel Foundation, Maa Saraswati Hospital Vs. CIT(Exemptions)', , (authored by one of us, the Vice President). Therein, it has been held as under:

"5. We have heard the parties and perused the material on record. At the outset, it is seen that registration u/s 12AA(1)(b)(i) of the I.T. Act was granted to the appellant Institution vide order dated 05.04.2016 (APB, 16-18). It is not disputed that this registration has hitherto not been revoked or cancelled. The Id. CIT(E) has observed, inter alia, that approval u/s 80G(5) of the Act is not a mechanical process, wherein the according of registration u/s 12AA of the Act at one end would result in the issuance of approval u/s 80G(5) at the other. Consistent judicial opinion in this regard, however, is otherwise. The issue is, as such, no longer res integra.

6. In "Hiralal Bhagwati vs. CIT", 246 ITR 188 (Guj.), while holding that once registration u/s 12AA of the Act was granted, the order rejecting the application u/s 80G(5) of the Act was liable to be quashed, the Hon'ble High Court observed that the registration of a charitable trust u/s 12A of the Act is not an idle or empty formality; that this is apparent from the provisions of Section 12A; that it requires that not only an application should be filed in the prescribed form, setting out the details of the origin of the trust, but also the names and addresses of the trustees and/ or Managers should be furnished; that the CIT has to examine the objects of creating the trust as well as an empirical study of the past activities of the applicant; and that the CIT has to examine that it is really a charitable trust or Institution eligible for registration. The Hon'ble High Court took into account the submission that once registration u/s 12A of the Act is granted, a grant of benefits under the act cannot be denied; that the ITO was not justified in refusing the benefits under the act which would otherwise accrue under the registration; that if there was no registration, the Revenue would have been justified in submitting 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.

7. "Hiralal Bhagwati" (Supra) was followed by the Agra ITAT in "Maa Bhagwati Samagra Utthan Trust vs. CIT" vide order (APB, 72-75) dated 18.03.2011, in ITA No. 293/Agr/2009, holding that when the CIT has granted registration u/s 12AA of the Act after examining the genuineness of the activities of the Trust, it is not proper for the CIT to reject the application of the trust for the benefit of exemption u/s 80G(5) of the Act by holding that the activities of the trust are not genuine.

8. In "N.N. Desai Charitable Trust vs. CIT", 246 ITR 452 (Guj), it was held, inter alia, that while considering the certification of the Institution for the purpose of Section 80G, inquiry should be confined to finding out if the Institution satisfies the prescribed conditions as mentioned in Section 80G; that it is well settled that at the time of granting the application u/s 80G, what is to be examined is whether the trust is registered u/s 12A and the objects of the trust; that so far as the aspect of income is concerned, the same can be very well examined by the Assessing Officer at the time of framing assessment; and that the Authority examining the question whether a trust/Institution is eligible to be certified for the purposes of Section 80G is not to act as an AO.

9. "N.N. Desai", (Supra) was followed by the Pune ITAT in "B.P.H.E. Society vs. ITO", in ITA No. 111/PN/2010, vide order dated 30.08.2011, holding that when the CIT is to examine an application seeking recognition u/s 80G, he is not required to act as an AO and decide upon the claim of the assessee in respect of his assessment of income; that the actual assessment of the assessee and its actual liability to tax are matters to be decided only in the assessment proceedings; and that since the assessee was (in that case, as herein also) registered u/s 12A of the Act and such registration continued, the assessee fulfilled the conditions prescribed u/s 80G(5)(i) of the Act.

10. "N.N. Desai" (Supra) has also been followed in "Marathi Vidyan Parishad Nashik Vibhag vs. CIT, Nashik", (APB, 95-102), by the Pune Tribunal, vide order dated 20.05.2016, in ITA No. 1465/PN/2014.

11. "N.N. Desai" (Supra) was also followed in "CIT vs. Pujya Jalarambpa & Matushri Virbaima Charitable Trust" (APB, 84-88), by the Rajkot Tribunal in ITA No. 249/Rjt/2014, vide order dated 30.05.2014. This order of the Tribunal stands approved by the Hon'ble Gujarat High Court in "CIT vs. Pujya Shri Jalarambapa & Matushri Virbaima Charitable Trust" 55 taxmann.com 52 (Rjt).

12. "Pujya Shri Jalarambapa"(Supra) rendered by the Hon'ble Gujarat High Court has been followed by this Bench in "M/s Samajik Pragya Prasar Samiti, Agra vs. CIT(E)" (APB, 76-83) vide 7 order (authored by one of us, the Id. AM) dated 16.01.2018, in ITA No.343/Agr/2016.

13. No decision contrary to the above case laws has either been referred by the Id. CIT(E) in the impugned order, or cited before us."

8. In the present case, it remains undisputed that the registration granted u/s 12A(a) of the Act w.e.f. 01.04.2008, vide order dated 22.09.2008, passed by the Id. CIT, continues hitherto. As such, the Id. CIT(E) has erred in rejecting the assessee's application u/s 80G(5) of the Act. The order under appeal is, therefore, reversed. The application filed by the assessee u/s 80G is allowed."

14. In the present case, undisputedly, the appellant is having registration u/s.12A of the Act since 22.8.2017. Therefore, this preposition supports the grounds of the assessee.

15. Similar issue had also come up for consideration before ITAT Chandigarh Bench in the case of Maharaja Aggarsain Charitable Trust (supra), wherein, the Tribunal held as follows:

"7. The Ld. counsel for assessee stated that none of the objects of the assessee society of the assessee society, more specifically those stated at clauses (a), (b) and (c) of the Act could be said to be of a religious nature as pointed out above. The Ld. counsel for assessee, therefore, stated that the assessee was not even hit by Explanation-3 of section 80G(5) of the Act. The Ld. counsel for assessee, therefore, contended that the assessee society was established for a charitable purpose and not for the purpose of benefiting any particular religious community or caste and was thus 5 eligible for grant of approval u/s 80G(5) of the Act. Reliance was placed on the decision of the Hon'ble High Court of Rajasthan in the case of Umaid Charitable Trust Vs. Union of India & Others reported in 307 ITR 226 wherein the Ld. counsel for assessee specifically drew our attention to para 13 of the order which stated that to serve as a charitable purpose it is not necessary that the objects must be to serve the whole of mankind or all persons living in country.

8. Thereafter the Ld.Counsel for the assessee stated that it was incorrect that the assessee had been spending only a fraction of its total receipts on charitable activities. The Ld. counsel for assessee drew our attention to the financial statement of the assessee society for the years endings 31.3.2012, 31.3.2013, 31.3.2014 and 31.3.2015 placed at page Nos.81 to 113 and pointed out that it had been spending consistently on its stated objects and deploying the revenue generated in accumulating assets for the purpose of its charitable objects. The Ld. counsel for assessee pointed out that the assessee was not keeping its surplus unutilized in cash or FDRs. The Ld. counsel for assessee further pointed out that the contention of the Ld.CIT(E) that major portion was being spent on salary does not go against the assessee since salaries were being paid to the staff who were involved

in running the charitable trust and the medical facilities being provided by it which was essential expenditure and further pointed out that even 6 the expenses to the tune of 25% of the total expenses cannot be said to be meagre on charitable purpose. The Ld. counsel for assessee also drew our attention to various activities carried out by the assessee society at less than normal rate like providing laboratory testing facilities at less than market price, conducting free operation of eyes, etc., placed at page Nos.114 to 130 of the Paper Book. The Ld. counsel for assessee, therefore, stated that the assessee trust was indulging primarily in charitable activities only.

9. The Ld. DR, on the other hand, relied upon the order of the Ld.CIT(E) and stated that celebrating Agarsain Jayantee and promoting feeling of brotherhood among Aggarwal community tantamount to benefiting a particular caste/community which was in violation of the conditions specified u/s80G(5)(iii) of the Act. The Ld. DR also pointed out that undoubtedly the assessee was spending meagre amount on charitable activities and thus was not entitled to grant of approval u/s 80G(5) of the Act.

10. We have heard both the parties, gone through the orders of the authorities below and also perused the documents to which our attention was drawn. We find merit in the contention of the Ld. counsel for assessee. Undoubtedly, the approval u/s 80G(5) is granted to institutions or funds which are established for charitable purpose and it rules out funds or institutions which are established for the benefit of a particular religious community or caste or objects which are of religious nature. 7 Considering the objects of the assessee society from this angle we find that none of the objects of the assessee carry a religious contour or are for the benefit of any particular community or caste. As for the object at clause (a) of fulfilling the aims of Agroha Vikas Trust & Maharaja Agarsein it has not been shown to us as to how it benefits only the Agarwal community. Further, as rightly pointed out by the Ld. counsel for assessee, propagating and inculcating religious feelings, brotherhood and nationalism among Aggarwal community only aim at bringing together members of the Agarwal community and developing feeling of nationalism amongst them which benefits the society at large and cannot be said to be either benefiting Aggarwal community only nor being in the nature of religious purpose. As for the object of celebration of Agarsain Jayanti ,it definitely does not have a religious contour and the Ld.Counsel for the assessee has emphasized that the celebrations involve the public at large therefore we fail to understand as to how the said object is for the benefit of a particular community only. Moreover only one object out of several objects cannot give a religious or communal colour to the assessee society. The rest of the objects aimed at developing the moral fabric of the society, help poor and needy children in their education and running charitable dispensaries and hospitals for the public at large are all charitable activities for the benefit of the general public. The Ld.Counsel has even demonstrated carrying out the

same in the preceding years by way of documents filed showing conducting free eye operations and carrying out medical tests at subsidized rates which has not been controverted by the Revenue. We also find ,on perusing the financial statements of the assessee society for the preceding three years i.e. year ending on 31-03-13,31-03-14 & 31-03-15 that all expenditures incurred are only in the context of running its charitable dispensary by way of purchasing medicines, paying staff salary and incurring misc. expenses only. No expenditure explicitly benefitting the Aggarwal community has been incurred by the assessee. Therefore we find no merit in the contention of the Revenue that the objects of the assessee society had religious contours and were benefitting a particular community only.

11. Further the contention of the Revenue that the assessee was spending only a small portion of its receipts on the stated charitable activities is again we find factually incorrect. The said finding, we find, has been arrived at after excluding the spend on salary, which as per the Ld.CIT(E) is not a charitable activity. But considering the fact that the assessee is carrying out number of charitable activities as stated in its objects which includes running the charitable dispensaries and hospitals for the public in general, the manning of the said dispensaries by adequate personnel and also the requirement of staff for managing the affairs of the society are basic and essential expenditure which are to be considered to have been incurred in the course of carrying out its charitable 9 activities alone and, therefore, staff salary paid on account of the same cannot be treated as being expenses not related to the charitable activity of the assessee concern. In such circumstances, the expenses incurred on staff salary are also to be treated as part of charitable activities carried out by the assessee and considering the same, therefore, the quantum of expenditure incurred by the assessee on its activities takes a quantum jump and thus the findings of Ld.CIT(E) that the assessee has incurred meagre income on its stated charitable expenses gets negated.

12. In view of the same, we set aside the order of the Id CIT (E) and direct that the assessee be granted approval under section 80G(5)(iii) of the Act.”

16. In the present case, the Id CIT DR has argued that the Trust has incurred huge expenses to celebrate foundation day. He drew our attention to page 46 of the assessee paper book. On the other hand, the Id counsel for the assessee submitted that foundation day is celebrated to introduce the charitable activities of the Trust to the public at large to say that “come

and join the charity and serve the humanity without any discrimination” and looking the total expenditure for the foundation day celebration are very less and from careful reading of relevant part of impugned order (supra), we clearly observe that it is not a case of the Id CIT (E) that funds have been used beyond charitable objects of Trust or have been misused or used other than charitable purposes. Therefore, the contentions of Id CIT DR are not acceptable as he cannot be allowed to make a new case before the Tribunal.

17. The Id CIT DR submitted that the appellant did not file note on charitable activities and copies of the Final accounts for immediately preceding financial year. The Id counsel submitted that the assessee submitted all required documents before the Id CIT (E) and he did not call any further documents. Ld CIT DR cannot be allowed to make a new view at this belated stage. Further, on perusal of the impugned order, we clearly observe that the Id CIT (E) has not pointed out any defect in the application of the assessee. However, only on the basis of clause (iii) of sub-section (5) of Section 80G, he denied registration u/s.80G of the Act by observing that the Trust’s activities includes religious activities and violating the provisions of section 80G(5)(iii) of the Act. As we have noted that the clause (iii) does not create any bar in undertaking religious activities but states that the Trust is not expressed to be for the benefit of any particular religious community or caste. In the present case, the Trust is serving

humanity without any discrimination of religious status or caste or creed as long as is for all human being without any discrimination. In addition to running a Gurudwar, they are also maintaining park for all citizens of Puri and visitors/tourists/pilgrims on the land given by Puri Municipal Corporation. They also served people during natural calamities like flood, earthquake, cyclone etc. Detail note including photocopies of documents and photographs available at page 1 to 39 of assessee PB clearly demonstrate that the Trust is not working for the benefit of any particular religious community or caste, thus not hit by clause (iii) of sub-section (5) of Section 80G of the Act. Ld CIT DR could not controvert the same, thus the findings recorded by the Id CIT (E) are not just, proper in denying the approval and registration u/s.80G of the Act.

18. Ld CIT DR also submitted that out of activities listed in the Trust objects, the Trust is only working on two –three objects and other objects are not being actually done. The Id counsel submitted that it is not a case of Id CIT (E) and cannot be a basis for denying registration u/s.80G of the Act. We are not in agreement with the contention of the Id CIT DR as from the relevant part of the impugned order, it is clear that the Id CIT (E) has denied registration only on one ground violation of clause (iii) of sub-section (5) of Section 80G of the Act. The revenue cannot be allowed to make a new case. Even if we see that the Id counsel of the appellant has not contended that the Trust's activities are centralised to only a few objects

cannot be a ground for denying registration u/s.80G of the Act as this is not required to conduct activities on all the objects to get approval & registration u/s.80G of the Act and it is also not a requirement of section 80G of the Act to conduct activities on all the objects stated in the Trust Deed. Therefore, we are of the considered view that the contention of Id CIT DR are not found to be acceptable in the present case.

19. The order of ITAT Jaipur in the case of Shri Bair Singh Ji Narayan Singh Ji Memorial Sansthan (supra) relied on by the assessee also provides support to the grounds of the assessee. In this order, the Co-ordinate bench has relied to the judgment of Hon'ble Rajasthan High Court in the case of Umaid Charitable Trust vs The Union of India (order dated 2.5.2008), wherein, it was held that unless objection of the assessee trust is for spending its income for a particular religion and it is so found in the Trust Deed, the Revenue cannot reject application seeking registration u/s. 80G of the Act merely because the Trust has incurred some expenditures for certain activities within its charitable objects.

20. We also find that the decisions relied by Id counsel for the assessee support the case of the assessee. Accordingly, in the absence of any other adverse finding of the CIT(E), as required by law for granting approval u/s 80G of the Act, regarding the charitable character and genuineness of the activities carried out by the assessee/applicant, the impugned order is not

only unsustainable based on unreasonable ground but also perverse being not in accordance with the provisions of the Act. Therefore, we direct the Id CIT (E) to grant approval u/s. 80G(5)(vi) of the Act.

21. In the result, appeal of the assessee is allowed.

Order pronounced under rule 34(4) of I.T.Rules, on 24/5/2021.

Sd/-
(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

Cuttack; Dated 24/5/2021
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Sri Guru Nanak Devji Religious & charitable Trust, Plot No.M/A-45, OSHB Colony, Puri-752001
2. The Respondent. CIT (Exemptions), Hyderabad
3. The CIT(A)-, Bhubaneswar
4. Pr.CIT-, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack