

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH**  
**(VIRTUAL COURT)**

**श्री एन.के.सैनी, उपाध्यक्ष एवं श्री आर.एल. नेगी, न्यायिक सदस्य**  
**BEFORE: SHRI. N.K.SAINI, VP & SHRI R.L. NEGI, JM**

आयकर अपील सं./ ITA No. 238/Chd/2020  
निर्धारण वर्ष / Assessment Year :

Bibi Bhaniji Bhalai Kendar Charitable Trust (Regd.), 42-L, Model Town, B/S Krishna (C) Hospital, Ludhiana (Punjab)	बनाम	The Commissioner of Income Tax (Exemptions), Chandigarh.
स्थायी लेखा सं./PAN NO: AACTB96967E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Inderjit Paul, Advocate  
राजस्व की ओर से/ Revenue by : Smt. C. Chandrakanta, CIT (DR)

सुनवाई की तारीख/Date of Hearing : 26/04/2021  
उद्घोषणा की तारीख/Date of Pronouncement : 26/04/2021

**आदेश/Order**

**PER N.K. SAINI, VICE PRESIDENT**

This is an appeal by the Assessee against the order dated 30/04/2019 of Id. CIT(E), Chandigarh. In this appeal, the assessee, although, has raised seven grounds of appeal, however, the main grievance of the assessee relates to rejection of application for approval U/s 80G(5)(vi) of the Income Tax Act, 1961 (hereinafter referred to as, the Act).

2. The facts of the case in brief are that the assessee e-filed an application in Form No. 10G on 18/10/2018 for approval U/s 80G of the Act before the Id. CIT(E) who asked the explanation of the assessee on the queries which are mentioned in para 2 of the impugned order, for the cost of repetition, these are not reproduced herein. The Id. CIT(E) mentioned that the assessee furnished reply which was received through Dak in his office on 19/03/2019. Thereafter, he

raised another queries mentioned in para 3 of the impugned order and fixed the date for furnishing the details by 16/04/2019. However, the Id. CIT(E) rejected the application of the assessee by observing in para 4 of the impugned order as under:

*“4. On 15.04.2019, the applicant trust replied vide email and requested for adjournment of 8-10 days. Till the passing of the order the applicant trust did not submitted the reply to the above mentioned queries. In view of the absence of any reply in response to the above queries raised by this office, the queries raised in this matter remained unexplained. All of the above, including the unresponsive attitude of the applicant, clearly leads one to conclude that the entity does not seem interested to pursue its application. It is entirely possible that it has no answer to the queries raised. In the light of the above, I have no option but to deny the approval to the applicant u/s 80G of the Income Tax Act, 1961.”*

3. Now the assessee is in appeal.

4. The Id. Counsel for the assessee submitted that the Id. CIT(E) without giving proper time to reply his queries, passed the impugned order ex parte and rejected the application moved by the assessee U/s 80G of the Act, in violation of principles of natural justice.

5. In her rival submissions, the Id CIT-DR supported the impugned order passed by the Id. CIT(E) and submitted that since the assessee did not reply to the queries raised by the Id. CIT(E), there was no alternate except to reject the application moved b y the assessee for approval U/s 80G of the Act.

6. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it appears that a due and reasonable opportunity of being heard was not provided by the Id. CIT(E) particularly when the case was fixed for furnishing the details on 16/04/2019and

the assessee sought time of 8-10 days vide email dated 15/04/2019. The Id. CIT(E) without commenting upon the request of the assessee, rejected the application moved by the assessee for approval U/s 80G of the Act by passing the impugned order ex parte. It is well settled that nobody should be condemned unheard as per the maxim "audi alteram partem". We therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside the impugned order and restore the matter back to the file of the Id. CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of hearing to the assessee.

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

(Order pronounced in the open Court on 26/04/2021)

**Sd/-**  
**आर.एल. नेगी**  
**(R.L. NEGI)**  
**न्यायिक सदस्य/ Judicial Member**  
**\*Ranjan**  
**Date: 26/04/2021**

**Sd/-**  
**एन.के.सैनी,**  
**(N.K. SAINI)**  
**उपाध्यक्ष / VICE PRESIDENT**

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File