

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH “DB”, ALLAHABAD**

(THROUGH VIRTUAL COURT),

**BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

ITA No.04/ALLD/2021

Assessment Year: NA

M/s. Patit Pawani Tara Tapo Sadhana Samiti, Tara Kuti, Chobey Tola, Mirzapur-231001, Uttar Pradesh	v.	Commissioner of Income Tax (Exemption) TC-46/V, Vibhuti Khand, Gomtinagar Lucknow- 226010, Uttar Pradesh
PAN: AADAP3535F		
(Appellant)		(Respondent)

Appellant by:	Shri S.C. Agrawal, Advocate
Respondent by:	Shri Shantanu Dhamija, CIT-DR
Date of hearing:	07.07. 2021
Date of pronouncement:	14.07. 2021

ORDER

PER SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER:

This appeal filed by assessee with Income Tax Appellate Tribunal, Allahabad, U.P.(hereinafter called “ the tribunal”) has arisen from the order bearing DIN & Order No. ITBA/EXM/S/EXM2/2020-21/1029150831(1) , dated 22.12.2020 passed by Ld. Commissioner of Income Tax (Exemption), Lucknow (for short ‘CIT(E)’) u/s 80G(5)(vi) of the Income-tax Act,1961 (hereinafter called “the Act”).

This appeal was heard through video conferencing mode through Virtual Court by Division Bench of ITAT, Allahabad Bench, Allahabad, U.P. .

2. The assessee has raised following grounds of appeal in memo of appeal filed with the tribunal:

- “1. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong to reject the application u/s 80G filed by the appellant trust.
2. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong to coming to the conclusion that the activities of the appellant trust were not charitable in nature.
3. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong to reject the 80G application ignoring the fact that the appellant trust fulfilled all the conditions laid down u/s 80G (5) of the Act.
4. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong in rejecting the application under Section 80G on the finding that the Appellant Society had not renewed its registration under the Societies Registration Act.
5. That the Ld. CIT(E) was wrong in contending that the material filed by the appellant was not sufficient to prove genuineness of activities and its objects.
6. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong in coming to the conclusion that the appellant trust did not carry out any charitable activities ignoring the fact that the appellant trust was already registered u/s 12AA of the Act and carrying out its activities as per its objects.
7. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong in rejecting the application under Section 80G on the basis that the no documentary proof of activities was submitted by the appellant.
8. That the Ld. Commissioner of Income Tax (Exemptions) Lucknow was wrong in holding that the activities trust were not genuine which could warrant rejection of application u/s 80G.
9. That the appellant craves leave to add/amend or delete grounds of appeal during the course of proceedings.”

3. The brief facts of the case are that the assessee had filed an application for registration u/s 80G(5) of the 1961 Act , on 10.03.2020 with learned Commissioner of Income Tax (Exemption), Lucknow, U.P.. The said application was disposed of by learned CIT(Exemption) by rejecting /declining to grant approval to the appellant u/s 80G of the 1961 Act , vide order dated 22.12.2020 , by holding as under:

- “1. The applicant has filed an application for registration u/s 80G(5) of the Income Tax Act, 1961 on 10.03.2020 with the Commissioner of Income Tax(Exemptions), Lucknow. Activities of the trust are stated to be relief to poor.

2. The applicant was accorded an opportunity of being heard by the CIT (E), Lucknow vide office letter F. No. ITBA/EXM/F/41/2020-21/1027615217(1)/2578 dated 30.07.2020, sent to the applicant at the address provided in its PAN through Speed Post and simultaneously posted on its e-filing portal also, calling for specific queries regarding its application for registration u/s 80G(5) of the Act, for compliance on 19.08.2020 either personally or through Authorized Representative or written submission by post or submission on e-filing portal. In compliance an email dated 18.08.2020 received for adjournment which is placed on file. Subsequently, another opportunity was provided to the assessee of being heard vide this office letter F.No. ITBA/EXM/F/41/2020-21/1027763224(1) dated 20.08.2020 for compliance on 31.08.2020. A reply was submitted through DAK in spiral on 31.08.2020 which is placed on file.

3. As per the provisions of the Rule 11AA of the Income Tax Rules, the following requirements for approval under section 80G of the Income Tax Act, 1961:

.....

(2) The application shall be accompanied by the following documents, namely:-
(i) Copy of registration granted under section 12A or copy of notification issued under section 10(23) or 10(23C) ;
(ii) Notes on activities of institution or fund since its inception or during the last three years, whichever is less;
(iii) Copies of accounts of the institution or fund since its inception or during the last three years, whichever is less.

(3) The Commissioner may call for such further documents or information from the institution or fund or cause such inquiries to be made as he may deem necessary in order to satisfy himself about the genuineness of the activities of such institution or fund.

(4) Where the Commissioner is satisfied that all the conditions laid down in clauses (i) to (v) of sub-section (5) of section 80G are fulfilled by the institution or fund, he shall record such satisfaction in writing and grant approval to the institution or fund specifying the assessment year or years for which the approval is valid

(5) Where the Commissioner is satisfied that one or more of the conditions laid down in clauses (i) to (v) of sub-section (5) of section 80G are not fulfilled, he shall reject the application for approval after recording the reasons for such rejection in writing.

.....

3. The written submission of the applicant have been considered. It is to be noted that the Registration certificate of the society has expired on 23.04.2020. No original bills & vouchers have been produced for verification of the activities and the expenses as per the objectives of the trust. The applicant was also requested to submit details of donation received along with confirmation of cash donations exceeding Rs.2,000/- but the applicant failed to submit any confirmations of the donations received during the last 3 years. Anonymous donations are not open to verification for genuineness, in the absence of cogent

documentary evidences. Further the applicant has not submitted documentary evidence in support of the charitable activities claimed to be carried out by the applicant.

4. In view of the above, it is evident that the applicant failed to make necessary compliance and also failed to provide any satisfactory reply with regard to the genuineness of activities towards its object of charitable nature.

5. Considering the above discussion, the application for approval u/s. 80G of Income Tax Act found deficient and deem not fit for approval u/s. 80G of Income Tax Act.

6. Accordingly, approval under section 80G of the Income-Tax Act 1961 is hereby refused.”

4. Aggrieved by an order dated 22.12.2020 passed by Id. CIT(E) refusing to grant approval u/s 80G of the 1961 Act, the assessee has now filed an appeal with the tribunal . This appeal was heard through video conferencing mode through Virtual Court by Division Bench of ITAT, Allahabad Bench, Allahabad, U.P., wherein both the rival parties have vehemently submitted their contentions through virtual mode .The Id. counsel for the assessee opened argument and submitted that the assessee is a society registered under the Societies Registration Act,1860 and the said registration was valid for a period of 5 years, effective from 24th April, 2015 to 24th April, 2020. The assessee has filed two paper books with tribunal to support its contentions. Our attention was drawn by Id. Counsel for the assessee to Societies Registration Certificate dated 24.04.2015 which is placed in Paper Book-II, at Page no. 4 . The Id. Counsel for the assessee submitted that the assessee was also registered with Revenue under Section 12AA of the 1961 Act . Our attention was drawn by Id. Counsel for the assessee to order dated 16.05.2019 issued by Id. CIT(E) granting registration to assessee u/s 12AA of the 1961 Act, which order is placed in Paper Book-I, at page No. 1 and 2. It was submitted by Id. Counsel for the assessee that the assessee filed an application for grant of approval u/s 80G with Department, on 10.03.2020. It was submitted that the assessee’s registration under Societies Registration Act, 1860 expired on 24th April, 2020 , which could not be renewed within time owing to spread of pandemic Covid-19 disease , and as well owing to restrictions /lockdowns imposed by Government to control the spread of

pandemic Covid19 disease. It was submitted by Id. Counsel for the assessee that later on the said registration of the assessee Society under Societies Registration Act, 1860 was renewed by Registrar of Societies, Varanasi, vide Renewal of Registration No. R/MIR/02568/2021-2022 Certificate No. V-48970, dated 11th June, 2021, effective from 24th April, 2020 for a period of five year, which is placed in Paper Book-II, at page No. 5 & 6. It was submitted that in the interim period before it could obtain renewal certificate under Societies Registration Act, 1860, the Id. CIT(Exemption) rejected the claim of the assessee for grant of approval u/s 80G of the 1961 Act, vide orders dated 22.12.2020, inter-alia, owing to registration of the assessee society having been expired on 23rd April, 2020 under the Societies Registration Act, 1860. It was submitted by Id. Counsel for the assessee that the other grounds for rejection of approval u/s 80G by Id. CIT(E) was owing to non-production of original bills and vouchers for verification of the activities and for verification of expenses having being incurred for objective of the assessee society, non-production of details of donation as well confirmation in the cases where cash donations exceeded Rs. 2000/- as well non-production of details of charitable activities carried on by the assessee. It was submitted by Id. Counsel for the assessee that all these grounds of refusal to grant approval u/s 80G of the 1961 Act are set out by Id. CIT(E) in its order dated 22.12.2020. The Id. Counsel for the assessee submitted that once registration u/s 12AA was granted by Revenue in favour of the assessee, then the registration u/s 80G is automatic and Revenue has no right to seek for any further details and Revenue is bound to grant registration u/s 80G of the 1961 Act. The Id. Counsel for the assessee relied upon following judicial pronouncements/ decisions to support its contentions:-

- i. ITAT, Lucknow Bench decision in the case of Ratan Chand Chhattibhai Seva Samiti v. Commissioner of income tax (Exemption), Lucknow in ITA no. 570/LKW/2019, dated 16.12.2020.
- ii. ITAT, Lucknow Bench decision in the case of Samekit Mahila Evam Bal Vikas Sansthan v. Commissioner of income tax (Exemption) Lucknow in ITA No. 666/LKW/2017, dated 16.11.2018.

- iii. Larger Bench judgment(Three Judge Bench) in the case of Hon'ble Allahabad High Court decision in the case of Commissioner of income tax (Exemption) Lucknow U.P v. Reham Foundation in ITA No. 37 of 2017, dated 26.09.2019.
- iv. Hon'ble Allahabad High Court judgment in the case of CIT v. Babu Ram Education Society, in ITA No. 341 of 2013, dated 14.12.2017. ”

Thus, the Id. Counsel for the assessee made prayers before the Bench that the tribunal has powers co-extensive with that of Id. CIT(E) and hence approval u/s 80G of the 1961 Act be granted to appellant by tribunal itself instead of remitting the matter back to the file of Id. CIT(E) for consideration afresh of assessee's application for grant of approval u/s 80G of the 1961 Act.

4.2 The Ld. CIT-D.R on the other hand submitted that assessee's registration under the Societies Registration Act,1860 had expired on 24.04.2020 and the assessee was not able to obtain renewal of registration under the Societies Registration Act, 1860 before its expiry on 24.04.2020 , and when the application for grant of approval u/s 80G was processed by Id. CIT(E), the registration of the assessee under Societies Registration Act had already expired on 24.04.2020 and hence Id. CIT(Exemption) was right in rejecting the approval u/s 80G, vide orders dated 22.12.2020. The Id. CIT-DR submitted that it is only subsequently on 11.06.2021, the assessee got the Societies registration renewed under the Societies Registration Act,1860 retrospectively with effect from 24.04.2020, but by that time the Ld. CIT(E) had already rejected application of the assessee for approval u/s 80G of the 1961 Act.The Id. CIT-DR submitted that the certificate issued by Registrar of Societies, Varanasi granting renewal of registration to assessee under Societies Registration Act, 1860 , was vide certificate dated 11.06.2021 albeit effective retrospectively from 24.04.2020 for a period of five years and is in the form of additional evidence filed by the assessee for the first time before the tribunal as the same was obtained by assessee on 11.06.2021 after the order was passed by Id. CIT(E) on 22.12.2020 refusing to grant approval to assessee u/s 80G and this additional evidence filed by

assessee for the first time before the tribunal requires verification by Department. The ld. CIT-DR submitted that the assessee did not co-operated with ld. CIT(Exemption) and did not produced original vouchers and bills for expenses for verification of activities and whether the same were carried on for the achievement of charitable objectives of the society , books of accounts were also not produced by assessee before ld. CIT(E), details of donations received were also not produced by assessee before ld. CIT(E), confirmation of cash donations exceeding Rs. 2000/- were also not produced by assessee before ld. CIT(E) , as are mentioned in the order of ld. CIT(E). It was submitted by ld. CIT-DR that the ld. CIT(E) was not able to verify whether the assessee was actually carrying on charitable activities as claimed to have been carried out by the assessee, owing to non co-operation of the assessee during the course of proceedings before ld. CIT(E) conducted in connection with grant of approval u/s 80G of the 1961 Act. It was submitted by ld. CIT-DR that these details were not produced by assessee even before the tribunal. The ld. CIT-DR drew our attention to provisions of Section 80G(5) and specifically to second proviso to Section 80G(5) of the Act and it was submitted that ld. CIT(E) is required to verify as to the charitable nature of activities carried on by assessee as well genuineness of the activities of the assessee , before granting approval u/s 80G of the 1961 Act , even if the assessee hold registration u/s 12AA of the 1961 Act. The ld. CIT-D.R. submitted that ld. CIT(Exemption) had rightly refused approval u/s 80G of the 1961 Act.

5. We have carefully considered rival contentions and have perused the material available on record including orders of authorities, paper books filed by assessee before the tribunal and case laws relied upon. We have observed that the assessee society was registered under the Societies Registration Act,1860 , vide Registration No. 71/2015-16 dated 24.04.2015 , for a period of five years from 24.04.2015 to 23.04.2020. The said registration was renewed by Registrar of

Societies, Varanasi vide Renewal Certificate no. R/MIR/02568/2021-2022 dated 11.06.2021 (Registration No. V-48970) , effective with retrospective effect from 24.04.2020 for a period of five years . The assessee was also registered with Revenue u/s 12AA of the 1961 Act, vide orders dated 16.05.2019. The said order is placed in paper book-I , at page 1-2. The assessee applied with Revenue for grant of approval u/s 80G of the 1961 Act, vide application dated 10.03.2020. The said application for grant of approval u/s 80G of the 1961 Act was rejected by Id. CIT(Exemption), vide orders dated 22.12.2020 as the assessee registration under the Societies Registration Act,1860 had already expired on 23rd April, 2020 and till the date order was passed by Id. CIT(Exemption) on 22.12.2020 ,the assessee was not holding registration under the Societies Registration Act, 1860 . It is only on 11th June, 2021 that the assessee got renewal of registration under Societies Registration Act, 1860, with retrospective effect from 24.04.2020 , which was now valid for a period of five years. This document dated 11.06.2021 granting renewal of registration of the assessee under Societies Registration Act, 1860 is an additional evidence which is now been filed by the assessee for the first time before the tribunal and the same had not test the scrutiny of verification by the Revenue . The Id CIT-DR has specifically raised this issue before us that the said document which is now filed by the assessee for the first time before tribunal requires verification by authorities. The Id. CIT(E) while rejecting application of assessee for grant of approval u/s 80G has also held that the assessee had not produced original bills and vouchers to verify the activities of the assessee and whether the said expenses were incurred towards attainment of its stated charitable objects of the assessee's society , further Id. CIT(E) observed that details of donations received were not furnished by assessee, confirmation of cash donations exceeding Rs. 2000 received during the last three years were also not furnished by assessee before Id. CIT(E), documentary evidences in support of charitable activities and objectives claimed to be carried on by the assessee were also not furnished by assessee before Id. CIT(E) , during the

course of proceedings conducted by Id. CIT(E) for grant of approval u/s 80G of the 1961 Act. The contention of Id. Counsel for the assessee before us are broadly threefold fold , firstly that Registration of assessee society under Societies Registration Act, 1860 expired on 23.04.2020 and the assessee could not obtain the same in time due to spread of pandemic Covid 19 disease and consequent restrictions/lockdowns announced by Government, which registration under Societies Registration Act, 1860 was in any case renewed by Registrar of Societies with retrospective effect from 24.04.2020 for a period of five years , vide Renewal Certificate dated 11.06.2021 , and it is contented by Id. Counsel for the assessee that even if the same was not before Id. CIT(E) when he passed an order dated 22.12.2020 rejecting assessee application for grant of approval u/s 80G , but now that since the same is filed before tribunal , the tribunal should accept the same and issue directions for grant of approval u/s 80G. Secondly it is the contention of the Id. Counsel for the assessee that once registration u/s 12AA is granted , then Revenue has no right to further look into any other aspects and Revenue is bound to give approval u/s 80G. Thirdly, the Id. Counsel for the assessee submitted before the Bench that tribunal has powers co-extensive with powers of Id. CIT(E) and hence the tribunal should direct for grant of approval u/s 80G of the 1961 Act instead of remanding the matter back to the file of Id. CIT(E) for consideration afresh of the assessee's application for grant of approval u/s 80G of the 1961 Act. The assessee has relied upon following judicial decisions to support its contentions :

- i. ITAT, Lucknow Bench decision in the case of Ratan Chand Chhattibhai Seva Samiti v. Commissioner of income tax (Exemption) ,Lucknow in ITA no. 570/LKW/2019 , dated 16.12.2020.
- ii. ITAT, Lucknow Bench decision in the case of Samekit Mahila Evam Bal Vikas Sansthan v. Commissioner of income tax (Exemption) Lucknow in ITA No. 666/LKW/2017, dated 16.11.2018.
- iii. Larger Bench judgment(Three Judge Bench) in the case of Hon'ble Allahabad High Court decision in the case of Commissioner of income tax (Exemption) Lucknow U.P v. Reham Foundation in ITA No. 37 of 2017, dated 26.09.2019.
- iv. Hon'ble Allahabad High Court judgment in the case of CIT v. Babu Ram Education Society, in ITA No. 341 of 2013, dated 14.12.2017. "

It is gainful at this stage to reproduce provisions of Section 80G(5) of the 1961 Act and Rule 11AA of the Income-tax Rule, 1962, which are reproduced hereunder:

“Section 80G

(5) This section applies to donations to any institution or fund referred to in sub-clause (iv) of clause (a) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely :—

[(i) where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 [* *] [***] [or clause (23AA)] [or clause (23C)] of section 10 :*

[Provided that where an institution or fund derives any income, being profits and gains of business, the condition that such income would not be liable to inclusion in its total income under the provisions of section 11 shall not apply in relation to such income, if—

(a) the institution or fund maintains separate books of account in respect of such business;

(b) the donations made to the institution or fund are not used by it, directly or indirectly, for the purposes of such business; and

(c) the institution or fund issues to a person making the donation a certificate to the effect that it maintains separate books of account in respect of such business and that the donations received by it will not be used, directly or indirectly, for the purposes of such business;]]

(ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;

(iii) the institution or fund is not expressed to be for the benefit of any

particular religious community or caste;

*(iv) the institution or fund maintains regular accounts of its receipts and expenditure; [* * *]*

*(v) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956 (1 of 1956), or is a University established by law, or is any other educational institution recognised by the Government or by a University established by law, or affiliated to any University established by law, [***] or is an institution financed wholly or in part by the Government or a local authority; [***]*

[(vi) in relation to donations made after the 31st day of March, 1992, the institution or fund is for the time being [approved by the Principal Commissioner or Commissioner;]

*[***]*

[(vii) where any institution or fund had been approved under clause (vi) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been,—

(a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and

(b) approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;]

[(viii) the institution or fund prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:

Provided *that the institution or fund may also deliver to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; and*

(ix) the institution or fund furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the

date of receipt of donation, as may be prescribed :

Provided that the institution or fund referred to in clause (vi) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

- (i) where the institution or fund is approved under clause (vi) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;
- (ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;
- (iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;
- (iv) in any other case, at least one month prior to commencement of the previous year relevant to the assessment year from which the said approval is sought:

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

- (i) where the application is made under clause (i) of the said proviso, pass an order in writing granting it approval for a period of five years;
- (ii) where the application is made under clause (ii) or clause (iii) of the said proviso,—
 - (a) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—
 - (A) the genuineness of activities of such institution or fund; and
 - (B) the fulfilment of all the conditions laid down in clauses (i) to (v);
 - (b) after satisfying himself about the genuineness of activities under item (A), and the fulfilment of all the conditions under item (B), of sub-clause (a),—
 - (A) pass an order in writing granting it approval for a period of five years; or
 - (B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its approval after affording it

a reasonable opportunity of being heard;

- (iii) *where the application is made under clause (iv) of the said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought,*

and send a copy of such order to the institution or fund:

Provided also *that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the first proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:*

Provided also *that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—*

- (a) *clause (i) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;*
- (b) *clause (iii) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;*
- (c) *in any other case, from the assessment year immediately following the financial year in which such application is made.]*

Rule 11AA of the 1962 Rules is reproduced hereunder:

Requirement for approval of institution of fund under clause (vi) of sub-section (5) of section 80G.

11AA. (1) *An application for approval under clause (vi) of sub-section (5) of section 80G, the institution or fund (hereinafter referred to as 'the applicant') shall be made in the following Form, namely:-*

- (a) *Form No. 10A in case of application under clause (i) or clause (iv) of first proviso to subsection (5) of section 80G to the Principal Commissioner or Commissioner authorised by the Board; or*
- (b) *Form No. 10AB in case of application under clause (ii) or clause (ii) of first proviso to subsection (5) of section 80G to the Principal Commissioner or Commissioner authorised under the said proviso.*

(2) *The application under sub-rule (1) shall be accompanied by the following documents, as required by Form Nos. 10A or 10AB, as the case may be, namely:—*

- (a) *where the applicant is created, or established, under an instrument, self-certified copy of the instrument;*
- (b) *where the applicant is created, or established, otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant;*
- (c) *self-certified copy of registration with Registrar of Companies or Registrar of Firms*

- and Societies or Registrar of Public Trusts, as the case may be;*
- (d) *self-certified copy of registration under Foreign Contribution (Regulation) Act, 2010(42 of 2010), if the applicant is registered under such Act;*
 - (e) *self-certified copy of existing order granting registration under clause (vi) of subsection (5) of section 80G;*
 - (f) *self-certified copy of order of rejection of application for grant of approval under clause (vi) of sub-section (5) of section 80G, if any;*
 - (g) ***where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the applicant relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;***
 - (h) ***note on the activities of the applicant.***
- (3) *Form Nos. 10A or 10AB, as the case may be, shall be furnished electronically, —*
- (i) *under digital signature, if the return of income is required to be furnished under digital signature;*
 - (ii) *through electronic verification code in a case not covered under clause (i).*
- (4) *Form Nos. 10A or 10AB, as the case may be, shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the applicant.*
- (5) *On receipt of an application in Form No.10A, the Principal Commissioner or Commissioner, authorised by the Board shall pass an order in writing granting approval under clause (i) or (iii) of the second proviso read with third proviso of sub-section (5) of section 80G in form 10AC and issue a sixteen digit alphanumeric Unique Registration Number (URN) to the applicants making application as per clause (a) of the sub-rule (1).*
- (6) *If, at any point of time, it is noticed that form 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents required to be provided under sub-rule (1) or (2) or by not complying with the requirements of sub- rule (3) or (4), the Principal Commissioner or Commissioner, as referred to in sub-rule (5), after giving an opportunity of being heard, may cancel the approval granted in Form No. 10AC and Unique Registration Number (URN), issued under sub-rule (5),and such approval or such Unique Registration Number (URN) shall be deemed to have never been granted or issued.*
- (7) *In case of an application made under clause (iv) of first proviso to sub-section(5) of section 80G, the provisional approval shall be effective from date of order, as referred to in sub- rule (5).*
- (8) *In case of an application made in Form No. 10AB under clause (ii) of the sub-rule (1), the order of approval or rejection or cancellation under second proviso to sub-section (5) of section 80G shall be in Form No. 10AD and in case if the approval is granted, sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued, by the Principal Commissioner or Commissioner referred to in second proviso to sub-section (5) of section 80G.*

(9) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall:

- (i) lay down the data structure, standards and procedure of , -
 - (a) furnishing and verification of Form Nos. 10A or 10AB, as the case may be;*
 - (b) passing the order under second proviso to sub-section (5) of section 80G.**
- (ii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said application made or order so passed as the case may be.]*

The provisions of Section 80G (5) and Rule 11AA of the Income-tax Rules, 1962 have recently undergone changes but fundamental and cardinal principle being that that the Principal Commissioner or the Commissioner has to make inquiries as to genuineness of the objects and activities of the such institution and also into the affairs conducted by institution are for charitable purposes , as is specified in the provisions of Section 80G(5) and Rule 11AA of the Income-tax Rules, 1962 , before granting approval under Section 80G. In the instant case , the registration u/s 12AA was granted by Revenue in May , 2019 , while an application for grant of approval u/s 80G was made by assessee on 10.03.2020. Thus, keeping in view time lag between grant of registration u/s 12AA by Revenue and application having being filed u/s 80G, it is all the more incumbent on Id. PCIT or CIT to verify whether the affairs of the assessee conducted for charitable purposes and for stated objects for which registration u/s 12AA was granted. Thus, the powers vested with Id. PCIT or CIT to make inquiries into the activities and affairs of the taxpayer institution to verify its genuineness as well as that activities and affairs are conducted for charitable objects, as it provided u/s 80G of the 1961 Act read with Rule 11AA of the 196 Rules is not a mere empty formality. It is established principal that the assessee has no vested right in procedures and once statute has provided for the procedures, the assessee has to comply with the same before being eligible for grant of approval u/s 80G. As is emanating from the order passed by Id. CIT(E) , the assessee did not co-operated with the Revenue and did not furnished original bills and vouchers to enable verification as to activities being conducted for charitable

purposes and for stated objects, also to verify whether the expenses were incurred for attainment of charitable objects of society , details of donations received and confirmation of cash donations exceeding Rs. 2000 received during last three year were also not furnished by assessee and also the assessee did not furnish evidence to enable Id. CIT(E) in support that activities carried out by assessee are charitable in nature. Secondly, the registration of the assessee under Societies Registration Act, 1860 had already expired on 23.04.2020 and hence consequently registration granted by Revenue u/s 12AA of the 1961 Act will run concurrently till the assessee holds the registration under the Societies Registration Act, 1980 , and thus registration u/s 12AA automatically also expired on 24.04.2020 running concurrently with registration of the assessee under the Societies Registration Act, 1860. It is different matter that the registration under Societies Registration Act, 1860 was renewed by Registrar of Societies on 11.06.2021 retrospectively w.e.f. 24.04.2020 for a period of five years, but by the time Id. CIT(E) had already passed an order on 22.12.2020 rejecting application of the assessee for grant of approval u/s 80G. The Id. CIT(E) was not having the benefit of having the renewed registration certificate on record, as the order rejecting approval u/s 80G was passed by Id. CIT(E) on 22.12.2020 , while renewal certificate under the 1860 Act was dated 11.06.2021. So ,this renewal certificate dated 11.06.2021 under the 1860 Act is an additional evidence filed by the assessee for the first time before the tribunal and the department has sought remand of the matter on this ground also as contended by Id. CIT-DR as this renewal certificate of registration requires verification. Thirdly, it is contended by the assessee that tribunal should itself grant the approval u/s 80G of the 1961 Act instead of remitting the matter back to Id. CIT(E) for fresh consideration of its application for grant of approval u/s 80G, as the tribunal has powers co-extensive with powers of Ld. CIT(E). In this regard , the decision relied upon by assessee of Larger Bench(Three Judges Bench) of Hon'ble Allahabad High Court in the case of Commissioner of income tax (Exemption)

Lucknow U.P v. Reham Foundation in ITA No. 37 of 2017, dated 26.09.2019 is relevant , which judgment has discussed about the powers of tribunal and the circumstances in which tribunal should itself grant registration u/s 12AA and the circumstances in which tribunal should remand the matter back to Revenue for fresh consideration of its application for registration u/s 12AA , which is reproduced as hereunder as under:

1. This Full Bench has been constituted in terms of the reference order dated 18.01.2019 passed by Division Bench in the case of Commissioner of Income Tax Exemption U.P. State Construction and Infrastructure vs. M/s. Reham Foundation Kandhari Lane, Behind Islamia College, Lal Bagh, Lucknow vide order dated 18.01.2019. The questions referred are as follows:-

"(i) Whether Income Tax Appellate Tribunal while hearing Appeal in a matter where registration under Section 12AA has been denied by Commissioner Income Tax can itself pass an order directing Commissioner to grant registration or should leave the matter to be considered by Commissioner Income Tax to consider matter afresh giving rise to further litigation in the matter;

(ii) Whether co-extensive Appellate jurisdiction conferred upon Income Tax Appellate Tribunal being a last court of fact can be read to confer upon it similar powers as been exercised by authorities below whose orders are considered in Appeals by Tribunal."

2. It was on an Appeal preferred by the Revenue under [Section 260](#) (A) of Income Tax Act, 1961 (hereinafter referred to as "the Act of 1961"). The Appeal was preferred to challenge the order of the Income Tax Appellate Tribunal, which directed registration of the Trust under [Section 12AA](#) (1)(b) of the Act of 1961 within a period of sixty days, failing which it would deemed to have been registered. The challenge to said direction was made by the Revenue in reference to the judgment of the Division Bench in Income Tax Appeal No. 112 of 2013: [Commissioner of Income Tax, Meerut vs. M/S. A.R. Trust Meerut](#) decided on 04.09.2017 wherein it was held that the Income Tax Appellate Tribunal itself cannot direct for registration of a Trust, without recording satisfaction, as contemplated under [Section 12AA](#) of the Act of 1961.

3. Learned counsel for the Revenue submits that power for registration of a Trust or an Institution under [Section 12AA](#) of the Act of 1961 has been given to the Commissioner. Those powers cannot be exercised by the Tribunal. If at all on the scrutiny of the case in Appeal, a case is made out for registration of a Trust, it needs to be remanded back to the Commissioner. The direction for registration of the Trust under [Section 12AA](#) of the Act of 1961 cannot be given by the Tribunal itself. It is for the reason that registration of the Trust under [Section 12AA](#) of the Act of 1961 is subject to the satisfaction of the Commissioner about the genuineness of activities of the Trust. In absence of recording of satisfaction of the Commissioner about the object and activities of a Trust, a direction for registration would be illegal. It is for that reason alone, the Division Bench of this Court in the case of M/s. A.R.

Trust Meerut (supra) caused interference in the order of the Tribunal, where direction was given for registration of the Trust within a period of sixty days.

4. *In the subsequent judgment in the case of M/s. Yamuna Expressway Industrial Development Authority (supra), a divergent view was taken by the Court. If a direction for registration of a Trust is given without recording satisfaction, it would be opposed to Section 12AA of the Act of 1961. The prayer is accordingly to answer the Reference against the assessee and in favour of the Revenue. It is after holding that the Appellate Tribunal is not competent to direct for registration of a Trust under Section 12AA of the Act of 1961, rather it should remand the case to the Commissioner for the aforesaid.*

5. *The argument raised by learned counsel for the Revenue has been opposed by learned counsel appearing for the assessee. It is submitted that after the rejection of an application for registration of a Trust under Section 12AA of the Act of 1961, if refusal is without considering any material, then on Appeal, after considering the issue and recording satisfaction, the Tribunal can direct for registration of the Trust. It is not only for the reason that such power exists with the Tribunal pursuant to Section 254 of the Act of 1961 but even to take the order of the Tribunal to its logical conclusions.*

6. *It is stated that if application for registration is rejected by the Commissioner after recording a perverse finding then on an Appeal, it can be corrected after taking a proper view and recording satisfaction, as required under Section 12AA of the Act of 1961, to direct for registration of the Trust. If the required satisfaction is recorded by the Appellate Tribunal, then remand of the matter would be nothing but an empty formality, as the Commissioner cannot take a view different then taken by the Appellate Tribunal. The registration of the Trust needs to be granted if the Appeal is allowed by the Tribunal after recording its satisfaction, as required under Section 12AA of the Act of 1961. In view of above, the Tribunal can itself issue a direction for registration of the Trust. The Tribunal can even remand the case in given circumstance when the Commissioner has rejected the application on hyper technical grounds and interference therein is made. The matter can be remanded back to the Commissioner to record its satisfaction, as required under Section 12AA of the Act of 1961. In view of above, the adjudication of the issue before the Tribunal can be with a direction to register the Trust under Section 12AA of the Act of 1961 or remand of the case. The prayer is to answer the Reference holding that Tribunal is having powers to direct for registration of a Trust under Section 12AA of the Act of 1961 or to remand the case to the Commissioner to record its satisfaction, as required under the Act. The direction of the Tribunal for registration of the Trust would however to be on recording such satisfaction and not otherwise. The prayer is accordingly to answer the Reference by holding that Appellate Tribunal is having the power to direct for registration of the Trust or alternatively to remand the case to the commissioner.*

7. *In counter, the counsel for the assessee has relied upon the judgment of Division Bench in the case of Income Tax Appeal No. 107 of 2016: Commissioner of Income Tax (Exemption), Lucknow vs. M/s. Yamuna Expressway Industrial Development Authority, decided on 21.04.2017. In the said case, the Division Bench held that powers of the Tribunal are co-extensive to that of the Commissioner under Section 12AA of the Act of 1961. Thus, it can direct for registration of a Trust/Institution. A reference of Section 254 of the Act of 1961 was given to show power of the Tribunal. The Division Bench therein found the Tribunal to be competent to direct for registration of a Trust. Taking into consideration the conflicting*

view, now we need to decide the questions raised before us and otherwise quoted herein above.

8. We have considered the rival submission of the parties and perused the record.

9. The issue before the larger Bench is in reference to [Section 12AA](#) of the Act of 1961, thus, it would be gainful to refer the provisions aforesaid. It is quoted hereunder for ready reference:-

"Procedure for registration.

12AA. (1) The Principal Commissioner or Commissioner, on receipt of an application for registration of a Trust or institution made under clause (a) or clause (aa) or clause (ab) of sub-section (1) of [Section 12A](#), shall--

(a) call for such documents or information from the Trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the Trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(b) after satisfying himself about the objects of the Trust or institution and the genuineness of its activities, he--

(i) shall pass an order in writing registering the Trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the Trust or institution, and a copy of such order shall be sent to the applicant:

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(1A) All applications, pending before the Principal Chief Commissioner or Chief Commissioner on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Principal Commissioner or Commissioner and the Principal Commissioner or Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.

(2) Every order granting or refusing registration under clause (b) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) or clause (aa) or clause (ab) of sub-section (1) of [section 12A](#).

(3) Where a Trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under [section 12A](#) [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently the Principal Commissioner or Commissioner is satisfied that the activities of such Trust or institution are not genuine or are not being carried out in accordance with the objects of the Trust or institution, as the case may be, he

shall pass an order in writing cancelling the registration of such Trust or institution:

Provided that no order under this sub-section shall be passed unless such Trust or institution has been given a reasonable opportunity of being heard.

(4) Without prejudice to the provisions of sub-section (3), where a Trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under [section 12A](#) [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently it is noticed that the activities of the Trust or the institution are being carried out in a manner that the provisions of [sections 11](#) and [12](#) do not apply to exclude either whole or any part of the income of such Trust or institution due to operation of sub-section (1) of [section 13](#); then the Principal Commissioner or the Commissioner may, by an order in writing, cancel the registration of such Trust or institution:

Provided that the registration shall not be cancelled under this sub-section, if the Trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner."

10. A perusal of [Section 12AA](#) of the Income Tax Act shows that the Principal Commissioner or the Commissioner, on receipt of an application for registration of a Trust or an institution, may call for such document or information as he thinks necessary to satisfy himself about the genuineness of the activities of the Trust or the Institution, as it deems necessary. After calling for such an information and satisfying himself about the object and genuineness of the activities of the Trust, he shall pass an order for registering the Trust or the Institution or in the alternate, refuse such registration. In view of the aforesaid provision, the registration of the Trust is subject to satisfaction of the Commissioner, not only over the genuineness of the activities of the Trust, but also about the objects of the Trust or the Institution. In view of above, the registration of the Trust requires satisfaction of the Commissioner. In case the Commissioner is satisfied with the genuineness of the activities and even the objects, he can register the Trust under [Section 12AA](#) of the Act of 1961 and in case the Commissioner is not satisfied or refuses registration, then the Appeal lies to the Tribunal to challenge such order under [Section 254](#) of the Act, 1961.

11. In such case, the Appellate Tribunal needs to adjudicate the issue raised before it because it is the last court of facts. The exemption under [Sections 11 & 12](#) of the Act of 1961 can be sought only after registration of the Trust, thus satisfaction of the Commissioner before registration has been given importance. In view of above, the argument of the learned counsel for the Revenue is that unless such a satisfaction, as envisaged under [Section 12AA](#) of the Act of 1961 is recorded by the Commissioner, a direction for its registration should not be given by the Tribunal. As against the aforesaid, the argument of learned counsel for the assessee is that if Tribunal is satisfied about the genuineness of the activities and the object then it can direct for registration.

12. Hon'ble the Supreme Court in case of Shiv Shakti Cooperative Housing Society versus Swaraj Developers and others reported in (2003) 6 SCC 659 has considered the scope of an Appeal although in terms of Sections 96 and 100 of the Code of Civil Procedure, 1908 but

the basic premise culled out from the pronouncement of Hon'ble the Supreme Court is that an Appeal is essentially continuation of original proceedings which is provided for only by statute and is not a necessary part of procedure in an action. The relevant paragraphs of the judgment is as follows:-

16. An Appeal is essentially continuation of the original proceedings and the provisions applied at the time of institution of the suit are to be operative even in respect of the Appeals. That is because there is a vested right in the litigant to avail the remedy of an Appeal. As was observed in [K. Kapen Chako v. Provident Investment Co. \(P\) Ltd.](#) [(1977) 1 SCC 593 : AIR 1976 SC 2610] only in cases where vested rights are involved, a legislation has to be interpreted to mean as one affecting such right to be prospectively operative. The right of Appeal is only by statute. It is (sic not a) necessary part of the procedure in an action, but "the right of entering a superior court and invoking its aid and interposition to redress the error of the court below. It seems absurd to denominate this paramount right part of the practice of the inferior Tribunal". (Per Lord Westbury, See: [Attorney General v. Sillem](#) [33 LJ Ex 209 : 10 LT 434 : 10 HLC 704, 724 : 11 ER 1200] , ER p. 1209.) The Appeal, strictly so called, is "one in which the question is, whether the order of the court from which the Appeal is brought was right on the materials which that court had before it" (Per Lord Devuil Ponnammal v. Arumogam [1905 AC 383, 390] . The right of Appeal, where it exists, is a matter of substance and not of procedure ([Colonial Sugar Refining Co. v. Irving](#) [1905 AC 369 : (1904-07) All ER Rep Ext 1620 : 92 LT 738 (PC)])."

"17. Right of Appeal is statutory. Right of Appeal inhered in no one. When conferred by statute it becomes a vested right. In this regard there is essential distinction between right of Appeal and right of suit. Where there is inherent right in every person to file a suit and for its maintainability it requires no authority of law, Appeal requires so. As was observed in [State of Kerala v. K.M. Charia Abdulla and Co.](#) [AIR 1965 SC 1585] the distinction between right of Appeal and revision is based on differences implicit in the two expressions. An Appeal is continuation of the proceedings; in effect the entire proceedings are before the Appellate Authority and it has the power to review the evidence subject to statutory limitations prescribed. But in the case of revision, whatever powers the revisional authority may or may not have, it has no power to review the evidence, unless the statute expressly confers on it that power. It was noted by the four Judge Bench in [Hari Shankar v. Rao Girdhari Lal Chowdhury](#) [AIR 1963 SC 698] that the distinction between an Appeal and a revision is a real one. A right of Appeal carries with it a right of rehearing on law as well as fact, unless the statute conferring the right of Appeal limits the rehearing in some way, as has been done in second Appeals arising under the Code. The power of hearing revision is generally given to a superior court so that it may satisfy itself that a particular case has been decided according to law. Reference was made to Section 115 of the Code to hold that the High Court's powers under the said provision are limited to certain particular categories of cases. The right there is confined to jurisdiction and jurisdiction alone."

13. With regard to interpretation of statute, it is settled law that statute is an edict of the legislature and where the words of statute are clear without any ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to innovate or take upon

itself the task of altering the statutory provisions by breathing into the provisions, words which have not been expressly incorporated by the legislature.

14. It is only in case where the words of statute are ambiguous or a reading of which clearly indicates that it is a case of 'casus omissus' that the court can interpret the provisions incorporated in statute. Hon'ble the Supreme court referring to various pronouncements in the case of Bharat Aluminium Company versus Kaiser Aluminium Technical Services Inc. reported in (2012) 9 SCC 552 has held that the court must proceed on the footing that the legislature intended what it has said. Even where there is a 'casus omissus' it is for the others than the courts to remedy the defect. The relevant paragraph in the case of Bharat Aluminium Company (supra) is as follows:-

"65. Mr Sorabjee has also rightly pointed out the observations made by Lord Diplock in Dupont Steels Ltd. [(1980) 1 WLR 142 : (1980) 1 All ER 529 (HL)] In the aforesaid judgment, the House of Lords disapproved the approach adopted by the Court of Appeal in discerning the intention of the legislature; it is observed that: (WLR p. 157 C-D) "... the role of the judiciary is confined to ascertaining from the words that Parliament has approved as expressing its intention what that intention was, and to giving effect to it. Where the meaning of the statutory words is plain and unambiguous it is not for the Judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning because they themselves consider that the consequences of doing so would be inexpedient, or even unjust or immoral. In controversial matters such as are involved in industrial relations there is room for differences of opinion as to what is expedient, what is just and what is morally justifiable. Under our Constitution it is Parliament's opinion on these matters that is paramount."

(emphasis supplied) In the same judgment, it is further observed: (WLR p. 157 F) "... But if this be the case it is for Parliament, not for the judiciary, to decide whether any changes should be made to the law as stated in the Acts...."

(emphasis supplied)"

15. With regard to taxing statute, it has been held that the courts have to apply strict rule of interpretation. When the competent legislature mandates taxing certain person/certain objects in certain circumstances, it can not be expanded/interpreted to include those, which were not intended by the legislature. The aforesaid has been held by Hon'ble the Supreme Court in the case of Commissioner of Customs (Import) Mumbai versus Dilip Kumar and Company and others reported in (2018) 9 SCC 1. The relevant paragraphs in the aforesaid judgment of Dilip Kumar and Company and others(supra) is as follows:-

"21. The well-settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the legislature."

"24. In construing penal statutes and taxation statutes, the Court has to apply strict rule of interpretation. The penal statute which tends to deprive a person of right to life and liberty has to be given strict interpretation or else many innocents might become victims of discretionary decision-making. Insofar as taxation statutes are concerned, [Article 265](#) of the Constitution ["265. Taxes not to be imposed save by authority of law.--No tax shall be levied or collected except by authority of law."] prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because the State cannot at their whims and fancies burden the citizens without authority of law. In other words, when the competent Legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the legislature."

"25. At the outset, we must clarify the position of "plain meaning rule or clear and unambiguous rule" with respect to tax law. "The plain meaning rule" suggests that when the language in the statute is plain and unambiguous, the court has to read and understand the plain language as such, and there is no scope for any interpretation. This salutary maxim flows from the phrase "cum inverbis nulla ambiguitas est, non debet admitti voluntatis quaestio". Following such maxim, the courts sometimes have made strict interpretation subordinate to the plain meaning rule [*Mangalore Chemicals and Fertilisers Ltd. v. CCT*, 1992 Supp (1) SCC 21] , though strict interpretation is used in the precise sense. To say that strict interpretation involves plain reading of the statute and to say that one has to utilise strict interpretation in the event of ambiguity is self-contradictory."

16. The principles with regard to 'casus omissus' and its implementation have also been dealt with by Hon'ble the Supreme Court in the case of Shiv Shakti Cooperative Housing Society (*supra*) in which the relevant paragraphs are as follows:-

"19. It is a well-settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the legislature enacting it. (*See Institute of Chartered Accountants of India v. Price Waterhouse* [(1997) 6 SCC 312 : AIR 1998 SC 74] .) The intention of the legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As observed in *Crawford v. Spooner* [(1846) 6 Moo PCC 1 : 4 MIA 179] courts cannot aid the legislatures' defective phrasing of an Act, we cannot add or mend, and by construction make up deficiencies which are left there. (*See State of Gujarat v. Dilipbhai Nathjibhai Patel* [(1998) 3 SCC 234 : 1998 SCC (Cri) 737 : JT (1998) 2 SC 253] .) It is contrary to all rules of construction to read words into an Act unless it is absolutely necessary to do so. [*See Stock v. Frank Jones (Tipton) Ltd.* [(1978) 1 All ER 948 : (1978) 1 WLR 231 (HL)]] Rules of interpretation do not permit courts to do so, unless the provision as it stands is meaningless or of a doubtful meaning. Courts are not entitled to read words into

an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself. (Per Lord Loreburn, L.C. in Vickers Sons and Maxim Ltd. v. Evans [1910 AC 444 : 1910 WN 161 (HL)] , quoted in [Jumma Masjid v. Kodimaniandra Deviah](#) [AIR 1962 SC 847] .)"

"23. Two principles of construction -- one relating to casus omissus and the other in regard to reading the statute as a whole -- appear to be well settled. Under the first principle a casus omissus cannot be supplied by the court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the legislature. "An intention to produce an unreasonable result", said Danckwerts, L.J. in Artemiou v. Procopiou [(1966) 1 QB 878 : (1965) 3 All ER 539 : (1965) 3 WLR 1011 (CA)] (All ER p. 544 I), "is not to be imputed to a statute if there is some other construction available". Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result", we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction. Per Lord Reid in Luke v. IRC [1963 AC 557 : (1963) 1 All ER 655 : (1963) 2 WLR 559 (HL)] where at AC p. 577 (All ER p. 664 I) he also observed: "This is not a new problem, though our standard of drafting is such that it rarely emerges."

17. A conspectus of the aforesaid judgments make it amply clear that statutory interpretation particularly with regard to taxing statutes has to be strict and only in accordance with the unambiguous words used in the statute. The intention of the legislature in incorporating or leaving out certain words is necessarily required to be seen.

18. The words 'as it thinks fit' used in relation to the powers of the Appellate Tribunal exercisable under [Section 254\(1\)](#) of the Act, 1961 is of the widest amplitude. The said expression confers a very wide jurisdiction enabling the Appellate authority to take an entirely different view on the same set of facts.

19. The terminology ' as it thinks fit' in relation to the powers of the Appellate authority have been considered by Hon'ble the Supreme Court in the case of Babu Lal Nagar versus Shree Synthetics Limited and others reported in 1984 (supp) SCC 128. The relevant paragraph of the judgment is as follows:

"16. [Section 66\(1\)](#) of the Act provides that the Industrial Court omitting the portion not relevant for the present purpose, may call for and examine the record of such case and pass order in reference thereto as it thinks fit. If the Industrial Court has the jurisdiction to pass any order in reference to a case called for by it as it thinks fit, obviously it can come to a conclusion on the same set of facts different from the one to which the Labour Court had arrived. It was however urged that this jurisdiction of wide amplitude has been cut down by the proviso which provides that the Industrial Court shall not vary or reverse any order of the

Labour Court under Section 66(1) unless -- (i) it is satisfied that the Labour Court has -- (a) exercised jurisdiction not vested in it by law; or (b) failed to exercise a jurisdiction so vested; or (c) acted in exercise of its jurisdiction illegally or with material irregularity. It was urged that these clauses so circumscribe and cut down the jurisdiction of the Industrial Court under Section 66 as to be on par with Section 115 of the Code of Civil Procedure. The main part of Section 61 (sic 66) clearly spells out the jurisdiction of the Industrial Court to pass any order in reference to the case brought before it as it thinks fit. The expression "as it thinks fit" confers a very wide jurisdiction enabling it to take an entirely different view on the same set of facts. The expression "as it thinks fit" has the same connotation, unless context otherwise indicates, "as he deems fit" and the latter expression was interpreted by this Court in [Raja Ram Mahadev Paranjyape v. Aba Maruti Mali](#) [AIR 1962 SC 753 : 1962 Supp (1) SCR 739] to mean to make an order in terms of the statute, an order which would give effect to a right which the Act has elsewhere conferred. Is this jurisdiction so circumscribed as to bring it on par with Section 115 of the Code of Civil Procedure? Proviso does cut down the ambit of the main provision but it cannot be interpreted to denude the main provision of any efficacy and reduce it to a paper provision. Both must be so interpreted as to permit interference which if not undertaken there would be miscarriage of justice. Sub-clause (c) of the first proviso to Section 66(1) will permit the Industrial Court to interfere with the order made by the Labour Court, if the Labour Court has acted with material irregularity in disposal of the dispute before it. If the finding recorded by the Labour Court is such to which no reasonable man can arrive, obviously, the Industrial Court in exercise of its revisional jurisdiction would be entitled to interfere with the same even if patent jurisdictional error is not pointed out."

20. Upon a perusal of the powers of the Appellate authority as indicated in [section 254\(1\)](#) of the Act, 1961, it can be seen that the widest jurisdiction has been conferred upon the Appellate authority in the wisdom of the legislature. The said power has not been proscribed in any manner whatsoever.

21. Hon'ble the Supreme Court in the case of [Clariant International Limited and another versus Securities and Exchange Board of India](#) reported in (2004) 8 SCC 524 has held that once the jurisdiction of the Appellate authority is not fettered by statute, it exercises all the jurisdiction. It has also been held that the limits to jurisdiction of the Appellate authority would have been stated explicitly in the statute had that been the intention of legislature.

The relevant paragraphs of the judgment in the case of [Clariant International Limited](#) (*supra*) are as follows;-

"73. Had the intention of Parliament been to limit the jurisdiction of the Tribunal, it could say so explicitly as it has been done in terms of [Section 15-Z](#) of the Act whereby the jurisdiction of this Court to hear the Appeal is limited to the question of law."

"74. The jurisdiction of the Appellate Authority under the Act is not in any way fettered by the statute and, thus, it exercises all the jurisdiction as that of the Board. It can exercise its discretionary jurisdiction in the same manner as the Board."

22. *In view of the aforesaid judgments of Hon'ble the Supreme Court, it is clearly evident that the provisions of the Act 1961 have to be interpreted strictly in accordance with what it explicitly states. Once the legislature in its wisdom has not fettered the jurisdiction of the Appellate Tribunal, it would not be appropriate for the courts to put fetters upon such jurisdiction since doing so would amount to doing violence to the specific provisions of statute.*

23. *A perusal of [Section 254](#) of the Act of 1961 shows that the Appellate Tribunal is given power to pass such orders, as it thinks fit. The powers given under [Section 254](#) of the Act of 1961 is to be read along with other provisions of the Act. [Section 12AA](#) of the Act of 1961 requires satisfaction about the genuineness of the activities and the objects of a Trust before its registration by the Commissioner. The arguments of learned counsel for Revenue in reference to the requirement of satisfaction on the genuineness of activities of a Trust is to be exercised by the Commissioner and that the Tribunal should not direct registration of Trust unless satisfaction, as envisaged under Section 12 (AA) of the Act, 1961 is recorded, is only partly correct.*

24. *Upon consideration of the judgments referred to herein above, we are of the considered opinion that in case where the Commissioner has refused to accept the application for registration of Trust after recording its finding on the basis of material on record before him holding that the activities and object of the Trust are not genuine and the Appellate Tribunal on the basis of the same material on record comes to the conclusion that the order of the Commissioner is perverse since it has been passed ignoring, misconstruing or misinterpreting such evidence, then it can direct registration of the Trust without remanding the matter to the Commissioner.*

25. *Remand of the case to the Commissioner in the said circumstance after recording of satisfaction by the Appellate Tribunal about the genuineness of objects and activities of the Trust, on the basis of material on record, would be an empty formality because the Commissioner in such a case can not go against the specific finding recorded by the Appellate Tribunal.*

26. *In view of the unfettered power of the Appellate Tribunal in terms of [section 254 \(1\)](#) of the Act, 1961 the Tribunal can very well record its satisfaction on the genuineness of the activities and object of the Trust and can very well direct registration of the Trust without remand of case to the Commissioner in case such satisfaction is recorded on the basis of documents and material already available on record at the stage of examination by Commissioner.*

27. However it would be a different matter where the Appellate Tribunal records such satisfaction on the basis of material or documentary evidence which was not available before the Commissioner while exercising his powers under Section 12 (AA) of the Act, 1961, which is our opinion would require remand.

28. *Remand to the Commissioner can also be affected in a case where the Commissioner rejects the application on a technical ground without recording its opinion on facts or genuineness of the activities and object of the Trust but the Tribunal finds ground for*

rejection on such technical ground thereby reopening the issue of recording satisfaction in terms of Section 12 (AA) of the Act, 1961.

29. *In view of the aforesaid discussion, it is clear that the power and jurisdiction of the Appellate Tribunal under Section 254(1) of the Act, 1961 is unfettered thereby enabling the Appellate Tribunal to direct registration of the Trust at its level itself but the same is not open as a matter of course and such power is to be exercised only in circumstances indicated herein above.*

30. *The said onus on the Appellate Tribunal to remand the matter in cases indicated herein above is also in view of the strict interpretation of the powers of the Commissioner under Section 12 (AA) of the Act, 1961 because if the Appellate Tribunal is given such wide powers to direct registration of Trust in all or any circumstances, it would render the provisions of Section 12(AA) otiose, which again can not be the intention of legislature.*

31. *In view of the above the answer to questions referred are answered as under:-*

(i) The income tax Appellate Tribunal while hearing an Appeal under Section 254(1) in a matter where registration under Section 12(AA) has been denied by Commissioner income tax can itself pass an order directing commissioner to grant registration in case the income tax Appellate Tribunal disagrees with the satisfaction of the Commissioner on the basis of material already on record before the Commissioner.

However the said power is not to be exercised as a matter of course and that remand to the Commissioner income tax is to be made where the income tax Appellate Tribunal records a divergent view on the basis of material which has been filed before the Appellate Tribunal for the first time.

Remand for determination of question regarding grant of registration to a Trust would also be necessitated in cases where the registration application has been rejected by the Commissioner income tax on technical grounds without recording his satisfaction as contemplated under Section 12 (AA) of the Act, 1961 and such decision is overturned by the income tax Appellate Tribunal.

(ii) The power of the Appellate Tribunal are co-extensive with the power of the Commissioner under Section 12 (AA) of the Act, 1961 subject to what has been indicated herein above. However order for registration can be issued only after recording satisfaction with regard to genuineness of activities of the Trust as provided under Section 12 (AA) of the Act, 1961.

32. *In view of the aforesaid the reference is answered.*

33. *The Registry is directed to place Appeals before the appropriate court dealing with the matter.”*

Thus, as held by Larger Bench of Hon'ble Allahabad High Court that tribunal has powers of widest amplitude u/s 254(1) of the 1961 Act, which also included powers to grant registration u/s 12AA of the 1961 Act instead of remitting matter back to Commissioner for fresh consideration of application of taxpayer, but the manner in which the same is to be exercised is also laid down by Hon'ble High Court in the aforesaid judgment . In the instant case before us, the assessee's registration certificate had already expired on 23.04.2020 which could not be renewed by assessee in time ostensibly owing to spread of pandemic Covid 19 disease and the same was later renewed on 11.06.2021 with retrospective effect from 24.04.2020 , which was after the ld. CIT(E) rejected the application for grant of approval u/s 80G of the 1961 Act, the assessee has also not furnished details as were asked by ld. CIT(E) in exercise of its powers u/s 80G(5) read with proviso of the 1961 Act and Rule 11AA of the 1962 Rules as the assessee did not co-operated with the Revenue and did not furnished original bills and vouchers to enable verification as to activities and also to verify whether the expenses were incurred for attainment of charitable objects of society , details of donations received and confirmation of cash donations exceeding Rs. 2000 received during last three year were also not furnished by assessee before ld. CIT(E) and also the assessee did not furnish evidence to enable ld. CIT(E) in support that activities carried out by assessee are charitable in nature. The aforesaid documents/evidences are also not furnished before us by the assessee , except that renewal of registration dated 11.06.2021 with retrospective effect from 23.04.2020 under Societies Registration Act, 1860 is filed for the first time before tribunal which is a fresh evidence filed for the first time before tribunal which as per ld. CIT-DR requires verification by department. We have already held that inquiry as contemplated u/s 80G(5) of the 1961 Act read with Rule 11AA of the 1962 Rules as to genuineness of the activities of the taxpayer institution is not an empty formality , more-so there is a time gap between grant of registration u/s 12AA in May 2019 and an application filed by assessee on

10.03.2020 with CIT(E) for grant of approval u/s 80G. In the fairness to both the parties and based on facts and circumstances of the case, we are inclined to set aside and restore application filed by assessee for grant of approval u/s 80G back to the file of Id. CIT(E) for consideration afresh of aforesaid assessee's application on merits in accordance with law, as in our considered view it is a fit case of remand back to the file of Id. CIT(E) for fresh consideration of assessee's application and our view is supported by Larger Bench judgment in the case of Commissioner of income tax (Exemption) Lucknow U.P v. Reham Foundation in ITA No. 37 of 2017, dated 26.09.2019 . While remanding matter back to the file of Id. CIT(E), we clarify that all the contentions are kept open. Needless to say that the Id. CIT(E) shall provide proper and adequate opportunity of being heard to assessee in accordance with principles of natural justice in accordance with law. The assessee is directed to appear before Id. CIT(E) and furnish all the relevant details/evidences in support of its application for approval u/s 80G of the 1961 Act, which will be decided by Id. CIT(E) on merits in accordance with law. We order accordingly.

6. In the result, the appeal of the assessee in ITA no. 4/Alld/2021 is allowed for statistical purposes.

Order pronounced in open court on 14/07/2021 at Allahabad through video conferencing mode.

Sd/-

[VIJAY PAL RAO]
JUDICIAL MEMBER

Sd/-

[RAMIT KOCHAR]
ACCOUNTANT MEMBER

DATED: 14/07/2021
Rohit, PS

Copy forwarded to:

1. Appellant – M/s Patit Pawani Tara Tapo Sadhana Samiti, Mirzapur, U.P.
2. Respondent – CIT(E), Lucknow

3. CIT(A) –NA
4. CIT, Allahabad, U.P.
5. DR – CIT-DR, Allahabad, U.P.

//True Copy//

By order
Assistant Registrar