

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

I.T.A. No. 7807/DEL/2019 (A.Y 2019-20)

Federation of Delhi Textile Merchants, 4951, Main Road Chandni Chowk, Opposite Kucha Kabil Attar New Delhi-110 006. PAN No. AAAAF4523A (APPELLANT)	Vs.	Income Tax Officer, (Exemption) Hqrs. New Delhi. (RESPONDENT)
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Assessee by :	N o n e
Department by:	Ms. Sunita Verma, [CIT] – D. R.;

Date of Hearing	12.07.2022
Date of Pronouncement	18.07.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee against the order dated 30.07.2019 of the Id. Commissioner of Income Tax (Exemptions), New Delhi [hereinafter referred to CIT (E)] for Assessment Year 2019-20.

2. The assessee has raised the following ground of appeal:-

“1. That the Ld. Commissioner of Income Tax (Exemptions) has erred in matter of law and fact by passing his order under section 80G(5)(vi) of the Income-tax Act, 1961 (‘Act) for rejection of the application of the applicant under section 80G of the Act.

2. That the Ld. Commissioner of Income Tax (Exemptions)has grossly erred in matter of fact and law by holding that the ‘activity’ of the applicant involves serving of liquor.

3. That the Ld. Commissioner of Income Tax (Exemptions)has grossly erred in matter of law and fact in taking an unreasonable decision of rejecting the application of the applicant under section 80G without considering the charitable activities of the applicant.

4. That each of the above mentioned grounds are without prejudice to one another and the appellant craves leave to add/amend to the grounds in the interest of justice.

In light of the abovementioned grounds it is most humbly prayed that the appeal of the appellant be allowed and the order of the CIT (Exemptions) dated 30.07.2019 be quashed and set aside. “

3. Brief facts of the case are that, the appellant filed an application electronically on 24/01/2019 in Form No. 10G seeking exemption u/s 80G of the IT Act. The appellant was issued letter dated 26/03/2019 requesting to submit certain documents in support of its claim of exemption u/s 80G. One more opportunity has been given vide letter dated 24/07/2019 by the Commissioner of Income Tax (Exemption) which reads as under:-

“ Kindly refer to this office note sheet, entry dated 18.06.2019, wherein a justification for activities was sought from your office.

In this regard your kind attention is invited for reply dated 22.07.2019 wherein you have filed bills of seminars along with hotel bills.

In this connection you are requested to explain the following

- i. How serving of liquor as mentioned in various bills is a charitable activities u/s 2(15) of IT Act.*
- ii. To explain how the activities of Federation is covered under charitable activities u/s 2(15) of IT Act.*

Since the matter is going to be barred by limitation on 31.07.2019. I am directed to state, that you are hereby given a final opportunity to explain the above with cogent evidence.

I am further directed to inform you that in case of failure to comply with this letter, an inference will be drawn that you have no explanation to offer and the matter/application filed in Form 10G will be decided on merits. Your reply/explanation in this regard should reach this office by 26/07/2019.”

4. The Appellant has filed reply and after considering the reply, the Commissioner of Income Tax (Exemption) held that, the activity involving serving of liquor cannot be set to be charitable, usage of money collected from donors is to be utilized for welfare of general public, not for enjoyment of people enjoying the state of affairs of the federation. The serving of the liquor cannot be considered as charitable activity for the welfare of general public. Further held that, since the assessee failed to provide proper explanation, the

genuine of the charitable activities cannot be verified. Accordingly, concluded that the conditions for granting exemption u/s 80G are not satisfied and rejected the application for granting of Exemption under Section 80G of the Act vide order dated 30/07/2019.

5. Aggrieved by the order dated 30/07/2019, the appellant has preferred the present appeal on the grounds mentioned above.

6. None appeared for the assessee even after service of the notice issued by the Registry of this Tribunal. Therefore, we constrained to decide the appeal on hearing the Ld. DR. The Ld. DR vehemently contended that, the appellant has been serving the liquors, which emanates from the bills of seminar along with hotel bills. Serving of liquor cannot be charitable activities u/s 2(15) of the Act, therefore, justified and relied on the order of Commissioner of Income Tax (Exemption) in rejecting the Application for grant of exemption u/s 80G of the Act.

7. We have heard the argument of Ld. DR, verified the material on record and gave our thoughtful consideration. We are fully agree with the contention of the Ld. DR that 'serving of liquor is not charitable activity u/s 2(15) of the IT Act, but the Ld. Commissioner of Income Tax (Exemption) has not mentioned the details of such activities conducted by the appellant in the order impugned. The Ld. Commissioner of Income Tax (Exemption) has relied on various bills of the Appellant wherein the service of liquor has been mentioned, but the Ld.CIT(A) has not mentioned the details of clarification/reply given by the Applicant in the order impugned and not adjudicated the reply given by the Applicant. The order of the Ld.CIT(A) is non speaking one. Therefore, we deem it proper to set aside the matter to the file

of the CIT(Exemption) to decide the matter afresh in accordance with law and pass appropriate speaking order. Needless to say that an opportunity of being heard be given to the Appellant herein. Accordingly, we allow the Assessee's Grounds of Appeal for statistical purpose.

8. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 18th July, 2022.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Dated : 18/07/2022

R.N

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

