



Office of the

Commissioner of Income-tax, Central- I

10th floor, R. No. 1001, Old CGO Bldg. Annexe, M. K. Marg, Mumbai - 400 020.

No. CIT(C)-I/Certificate/80G/2008-09

Dated : 16/07/2008.

Name & Address of the assessee : Shri. Vithalrao Joshi Charities Trust
C-28, Suyash , 2nd Floor,
Gokhale Road (North),
Near Amar Hind Mandal,
Dadar, Mumbai - 28.

P.A.N. : AABTS7103H

CERTIFICATE U/S 80-G OF THE I.T. ACT, 1961
(RENEWAL)

On verification of the facts stated before me/hearing before me I have come to the conclusion that this organization has satisfied the conditions u/s. 80-G of the I.T. Act, 1961. It shall henceforth satisfy the conditions u/s. 80-G(5) as laid down below :

1. Donee Institution shall forfeit this benefit provided under the law if any one of the conditions stated herein is not applied with / flouted/abused/whittled down or in any way violated.
2. This exemption is valid for the period from 1/4/2008 to 31/03/2011 (A.Y. 2009-10 to 2011-2012) and subject to the following conditions.

CONDITIONS :

- i) You shall maintain your accounts regularly and also get them audited to comply with Sec. 80-G(5)(iv) read with Sec. 12A(b) of the I.T. Act.
- ii) Every receipt issued to a donor shall bear the number and date of this order and shall state the date up to which this certificate is valid i.e. Assessment Year 2009-10 to 2011-2012.
- iii) No change in the Deed of the Trust/ Association shall be effected without due procedure of law i.e. by the order of the jurisdictional High Court and its intimation shall be given immediately to this office.

- iv) Under the provisions of Sec. 80-G if you are registered u/s. 12A, u/s. 12AA(1)(b) or approved u/s. 10(23), 10(23C)(vi)(via), etc. shall have to maintain separate books of accounts in respect of any business activity carried on u/s. 80-G(5)(i)(a) and shall intimate it within one month of commencement of such activity to this office.
- v) Under the provisions of Sec. 80-G any donation received shall not be utilized for the purpose of any such business carried on whether directly / indirectly.
- vi) While issuing the certificate to the Donor the commitment made above should be honored and it shall not be abused / used in any other purpose.
- vii) The institution shall ensure that no Non-Charitable purpose shall be served or sought to be served by the Trust / Society / Non-Profit Company as is informed in terms of Yogiraj Trust reported in ITR 777 (SC).
- viii) It shall be ensure that at no time you shall utilize the institution or its funds for the benefits of any particular religious community or cast prohibited u/s. 80G(5)(iii).
- ix) This office and the Assessing Officer shall also be informed about the Managing Trustee/ Manager of your Trust/Society/Non-Profit Company and the place where the activities of the Trust / Institution are undertaken / likely to be undertaken to satisfy the claimed objects.
- x) In case Renewal is not sought from this office the manner in which the assets shall be used / the purpose for which they shall be used shall be immediately informed to this office.

P. R. Sethi
(P. R. SETHI)

Commissioner of Income-tax
Central -I, Mumbai.

Copy to :

- 1) The applicant as above.
- 2) The Addl. CIT, CR-2, Mumbai.
- 3) The ACIT, CC-7, Mumbai.
- 4) Office Copy.

Ganesh S. Iyer
(GANESH S. IYER)

INCOME TAX OFFICER (HQ) - TECH.
FOR CIT, CENTRAL-I, MUMBAI.

Section 80G – Approvals already granted to the assessee u/s 80G, if expiring on or after 1.10.2009, shall be deemed to have been extended in perpetuity

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Ina Raja Memorial Education Trust Vs DIT (Exemptions) – (ITAT Delhi) - In this case, the assessee made an application on 24.2.2011 in Form No. 10G, seeking renewal of exemption u/s 80G of the Act, which has been rejected by the Id. CIT(A) by observing that the assessee has failed to furnish bills/vouchers of expenses and certain other details as stated by him in para 2 of his order. In this connection, it is pertinent to note that proviso to clause (vi) of Section 80(G) sub-section (5) has been omitted by the Finance Act (No. 2) 2009 w.e.f. 1.10.2009. As per clause (vi) of Section 80G(5) of the Act, institution or fund, to which donations are made, have to be approved by the Commissioner of Income Tax, in accordance with the Rules prescribed in Rule 11AA of the Income Tax Rules, 1962. The proviso to this clause provided that any approval granted under this clause shall have effect for such assessment year or years, not exceeding five assessment years, as may be specified in the approval. However, this proviso imposing the limitation of five years has since been omitted by the Finance Act, 2009 w.e.f. 1.10.2009 to provide that the approval once granted shall continue to be valid in perpetuity. The impact and scope of the omission of proviso to clause (vi) of sub-sec. (5) of Sec. 80G has been explained by the Board in its Circular No. 5 dated 3.6.2010, clarifying that the existing approval expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity, unless specifically withdrawn. Para 29.7 of the said Circular provides that the amendment omitting the proviso to clause (vi) of subsection (5) of Section 80G has been made applicable with effect from 1st October, 2009 and, accordingly, existing approvals, expiring on or after 1st October, 2009, will be deemed to have been extended in perpetuity unless specifically withdrawn. Therefore, in the present case, **the approvals already granted to the assessee u/s 80G, if expiring on or after 1.10.2009, shall be deemed to have been extended in perpetuity and the question of filing any fresh application for renewal of exemption is not necessary.** In this connection, reliance may be placed on the decision of Hon'ble Allahabad High Court in the case of Babu Hargovind Dayal Trust vs ITAT(2011) 199 Taxman 138(All.), where the Hon'ble High Court has held that exemption already granted on or after 1.10.2009 shall be deemed to be continued in perpetuity and it will continue so long as it is not withdrawn, as per the provisions of the Act. This aspect of the matter, about the omission of proviso to Section 80G(5)(vi) read with the Board's Circular, has not been considered by the Id. DIT(E) while rejecting the assessee's application for renewal of exemption. We, therefore, restore this matter back to the file of the DIT(E) with the direction to treat the approval of exemption granted earlier u/s 80G of the Act to the assessee in perpetuity, provided the earlier exemption granted u/s 80G of the Act to the assessee was to expire on or

after 1.10.2009 and, in that case, the question of renewal of exemption u/s 80G would not arise. Otherwise, the DIT(E) shall examine the matter afresh, after providing reasonable opportunity of being heard to the assessee to produce all the details as required by him and shall decide the issue as per law contained in that behalf.

INCOME TAX APPELLATE TRIBUNAL, DELHI

ITA NO.4640/DEL/2011

Ina Raja Memorial Education Trust

Vs

DIT (Exemptions)

ORDER

PER C. L. SETHI, J.M.

The assessee Trust is in appeal against the order dated 18.8.2011 passed by learned DIT(E), rejecting the assessee's application furnished in Form No. 10G, for renewal of exemption u/s 80G of the I.T. Act, 1961 (the Act).

2. In the grounds of appeal, the assessee has taken one legal plea that while rejecting the assessee's application for renewal of exemption u/s 80G filed on 24.12.2011, the learned DIT(E) has ignored the amendment made in Section 80G(5)(vi) by the Finance Act (No.2) 2009, whereby the proviso to the said clause(vi) of sub-section (5) has been omitted. It has been further contended that the Board Circular dated 3.6.2010 and 27.10.2010 has also not been taken into account by the learned DIT(E).

3. When this appeal was called upon for hearing, we find that an adjournment application has been placed on record, seeking adjournment by the Id. Counsel for the assessee for the reason that he would not be able to attend the hearing as his brother met with a severe accident yesterday and suffered multiple fractures on his leg, shoulder and upper arm. However, having regard to the fact that the issue involved in this case about the applicability of the deletion of the proviso to Section 80G(5)(vi) is in favour of the assessee, we decided to proceed to dispose of this appeal after hearing the Id. DR. Id. DR was accordingly heard.

4. In this case, the assessee made an application on 24.2.2011 in Form No. 10G, seeking renewal of exemption u/s 80G of the Act, which has been rejected by the Id. CIT(A) by observing that the assessee has failed to furnish bills/vouchers of expenses and certain other details as stated by him in para 2 of his order. In this connection, it is pertinent to note that proviso to clause (vi) of Section 80(G) sub-section (5) has been omitted by the Finance Act (No. 2) 2009 w.e.f. 1.10.2009. As per clause (vi) of Section 80G(5) of the Act, institution or fund, to which donations are made, have to be approved by the Commissioner of Income Tax, in accordance with the Rules prescribed in Rule 11AA of the Income Tax Rules, 1962. The proviso to this

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5. In the result, the appeal filed by the assessee is treated to be allowed in the manner as indicated above.

Order was pronounced in the open court on 21st December, 2011.