

CIT Vs Balaji Charitable Trust

Court: Rajasthan High Court (Jaipur Bench)

Date of Decision: Dec. 16, 2011

Acts Referred: Income Tax Act, 1961 " Section 2(15), 80G

Hon'ble Judges: Arun Kumar Mishra, C.J; Narendra Kumar Jain, J

Bench: Division Bench

Advocate: Anuroop Singhi with O.P. Pareek, for the Appellant;

Final Decision: Dismissed

Judgement

1. Heard on the question of admission. The order passed by the Tribunal, Jaipur has been challenged by filing the instant appeal.

2. The question raised is whether respondent could have been granted approval u/s 80G of the IT Act, 1961. The factual matrix indicates that

donation of Rs. 7,00,000 was given to Mahabir Prasad Jatia Charitable Trust, Jatia Chambers, 60, Dr. V.B. Gandhi Marg, Mumbai after

obtaining receipt dated 20-8-2007; a copy of the receipt was produced before the assessing officer a certificate was also obtained from the donee

trust for exemption u/s 80G and a copy of certificate was also furnished before the assessing officer, however, literature of the trust was not

furnished before the assessing officer.

3. The assessing officer found that the activities of the trust were in violation to its objects and not for the purposes as laid down in section 2(15) of

the IT Act, 1961 and conditions laid down u/s 80G of the Act were also not fulfilled.

4. The income tax appellate authority has allowed the appeal while making the following discussion in para 5 of the order :

5. Considering the above submissions we find substance in the contention of the learned Authorised Representative that when the donee trust M/s

Mahaveer Prasad Jatia Charitable Trust to whom the appellant had donated Rs. 7 lacs was issued certificate u/s 80G by the competent authority

of the Department, there was no reason with the learned Commissioner of Income Tax IT to doubt the objects of the donee trust as not charitable

only because no literature of the donee trust was available with the assessee during the proceedings on the basis of which learned Commissioner of

Income Tax drew an inference that the appellant had not verified the objects of the donee trust before giving the said donation. We also agree with

the submissions of learned Authorised Representative that there is no bar on making donations out of available funds of the trust to any extent as

section 80G does not prohibit the same expressly and specifically. So far as the official minutes of the meeting held by Direct Taxes Advisory

Committee (Central) on the issue of donations out of corpus fund, referred by the learned Commissioner of Income Tax is concerned, the learned

Commissioner of Income Tax has not pointed out that the advice of the Direct Tax Advisory Committee (Central) on the issue has been

implemented by the legislature or any other competent authority. We are thus of the view that the minutes of the said committee on the issue is not

binding in nature. Under these circumstances, we thus while setting aside the refusal order in question direct the learned Commissioner of Income

Tax concerned to grant approval of section 80G as prayed for by the appellant before him. The ground is accordingly allowed.

5. Shri Anuroop Singhi, counsel appearing on behalf of appellant has submitted that literature of the donee charitable trust was not submitted,

therefore, it was not appropriate to give the benefit of section 80G of the IT Act.

6. After hearing the counsel for the appellant at length, we are of the opinion that receipt was filed; certificate u/s 80G of the Act of donee was also

submitted, which has been relied upon. It is a matter of sufficiency of the evidence to grant benefit and it cannot be said that findings recorded by

the Tribunal are perverse or which could not have been arrived at, in the facts and circumstances of the case. We do not find any substantial

question of law involved in this appeal and the same is, accordingly, dismissed.