

Limitation, In re 438 ITR 296 (SC) read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and *421 ITR 314* has taken a *suo motu* cognizance of the situation arising out of the challenges faced by the country on account of COVID-19 Virus and resultant difficulties that could be faced by the litigants across the country and accordingly extended the time limit for filing of appeals. We, therefore, condone the delay in filing the instant appeal and admit the same for disposal on merits.

3. Briefly stated, the facts of the case are that the assessee filed an application for grant of recognition u/s.80G(5)(vi) of the Act on 15-09-2020. The Id. CIT(E) observed that the assessee had filed application for registration u/s.12AA of the Act on 19-02-2020 under the category of ‘*Religious-cum-charitable*’ institution and the registration was granted u/s.12AA of the Act pursuant to the order passed by the Tribunal on 24-03-2021. Taking up the application for grant of registration u/s.80G(5), the Id. CIT(E) observed that Explanation 3 appended at the bottom of section 80G provides that the term ‘*charitable purpose*’ does

not include any purpose the whole or substantially the whole of which is of a religious nature. He further observed from the Income and Expenditure account of the assessee for the financial years 2017-18, 2018-19 and 2019-20 that more than 50% of the total income of the trust was spent on religious activities. Taking note of sub-section (5B) of section 80G, the Id. CIT(E) observed that the expenditure of religious nature should not exceed 5% of the total income. On being confronted, the assessee submitted that the expenses under the head '*Religious expenses*' mentioned in the Income and Expenditure account were in the nature of provision of food to needy; providing assistance to the needy for travelling; conducting session for teaching like morals for greater good of public at large and not for any religious purpose. The assessee also submitted item-wise break-up of the expenses booked under the head '*Religious expenses*' to demonstrate that only minuscule expenditure was incurred for religious purpose. Not satisfied, the Id. CIT(E) refused to grant registration u/s.80G of the Act. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

4. We have heard the rival submissions and perused the relevant material on record. The case made out by the Id. CIT(E) for denial of the registration u/s.80G is that the assessee was engaged in religious activities which was apparent from its Income and Expenditure account having a mention of 'Religious expenses' head, which were more than 50% of total income. The auditor of the assessee, who drew and certified Income and Expenditure account, clarified vide declaration dated 16-02-2021, a copy of which was also filed before the Id. CIT(E), that the term '*Religious expenses*' referred to in the Income and Expenditure account embraced the expenses incurred for greater good of society at large and were not restricted to any particular caste or community. Expenditure under this head was not incurred for the benefit of a specific community or any specific religion. The beneficiaries of the expenditure incurred included people from every caste and community of the society. Though this declaration was stated to be filed before the Id. CIT(E) but the same has not been commented upon in the impugned order. Thereafter, the

assessee filed affidavits from certain persons coming from different places who attended the events of the trust. English translations of their affidavits are available at page 13 onwards of the paper book. The first person is Mr. Nitin Prabhakar, representative of Christian religion, who affirmed that he was regularly visiting the assessee-trust for programmes which were on the theme of 'Sarva Dharma Samabhav'. He further affirmed that people of all castes and religions participated in the events. The next affidavit is given by Lion Vasanttrao Marotrao Dhadve to the similar effect affirming that the programmes organized by the assessee-trust rendered the feeling of all religions. Similar is the position regarding another affidavit. These affidavits were also before the Id. CIT(E) but escaped his attention. Page 32 of the paper book contains Objects of the trust, which include facilitating daily prayers; organizing religious programmes; arranging accommodation for pilgrims; arranging religious and spiritual education; running food facility and medical facility for villagers and helping the poor, orphans etc. There is no specific reference to any particular religion. The objects talk of

upliftment of all the sections of the society coming from any religion, caste or creed. Explanation 3 to section 80G simply states that '*charitable purpose*' does not include any purpose the *whole or substantially the whole of which is of a religious nature*. This shows that at least some part of activities of a trust, which are of religious nature, are permitted. This fact is further fortified by sub-section (5B) of section 80G which provides that institution or fund which incurs expenditure during any previous year, which is of a religious nature for an amount not exceeding 5% of its total income in that previous year, shall be deemed to be an institution or fund to which the provisions of this section apply. From the break-up of 'Religious expenses' furnished by the assessee, as incorporated in the impugned order, it is manifest that the religious expenditure is less than the prescribed percentage. The Id. DR could not controvert the narration of expenses given against them as tabulated in the impugned order. In view of the above statutory provisions and the factual panorama obtaining in the extant case, we are satisfied that the assessee deserves recognition u/s.80G(5)(vi) of the Act, which is

hereby accorded. The impugned order is *ex consequenti* overturned.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 12th May, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 12th May, 2022
Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT (Exemptions), Pune
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune
5. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	11-05-2022	Sr.PS
2.	Draft placed before author	12-05-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
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10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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