

PROCEEDINGS OF THE DIRECTOR OF INCOME TAX (EXEMPTIONS) : HYDERABAD

C.R. PATI, I.R.S.,
Director of Income Tax (Exemptions)

F.No. DIT(E)/HYD/80G/4(09)/2013-14

Dated: 28-02-2014

SUB: Granting of an approval or for continuance thereof to an Institution or a fund (referred to u/s. 80G(2) & (5) of the I.T .Act, 1961) – Reg.

REF: The application in Form No.10G filed by **Choice Foundation**, (PAN: AAFCC0549J), F-202, Emkay Manor, Plot No.30, Main Road, Srinagar Colony, Hyderabad – 500 073.

APPROVAL U/S .80G(5)(vi) OF THE INCOME TAX ACT, 1961

The application filed by the above institution, incorporated under section 25 of the Companies Act, 1956, which was earlier granted registration u/s 12AA(1)(b)(i) of the Income Tax Act, 1961, vide order in F. No.DIT(E)/17(02)/12A&80G/12-13 dated 21.08.2013, in Form No.10G on 04-09-2013 seeking approval u/s.80G(5) of the Act, has been examined and I am satisfied that:

- (i) This is a fund/institution as mentioned in clause (iv) of sub-section 2 of Sec.80G of the I.T. Act, 1961;
- (ii) The donations made to the said institution/fund/ do qualify for deduction in computing the income of a person who makes the donation i.e. in the hands of the donor.

Accordingly, the approval sought for is hereby accorded under Section 80G(5)(vi) of the Income Tax Act, 1961.

2. The approval shall have effect from **27-02-2014 onwards** subject to all other provisions of the I.T. Act, 1961 as applicable and the following conditions:-
 - i) The receipts issued to the donors should bear the number and the date of this order and the period of validity.
 - ii) The institution shall submit the statement of income and expenditure and other financial statements for the year ending on 31.03.2014 and subsequent year(s) within the prescribed time before the prescribed authority.
 - iii) The fund or institution shall maintain the books of account regularly and also get the same audited as required under Clause (b) of Subsection (1) of Section 12A of the I.T. Act.
 - iv) The fund or institution shall file the Return of Income regularly as stipulated under Section 139(1) read with section 139(4A).
 - v) No change in the Memorandum of Association shall be effected without due procedure of law and its intimation shall be given immediately to this Office.

- vi) The institution shall maintain separate books of account in respect of business activity as stipulated in the proviso to Clause (i) of Sub-section (5) of Section 80G. The donations received should not be used directly or indirectly for the purpose of business.
- vii) No Expenditure should be incurred which is of religious nature in any previous year in excess of five percent of its Total Income of that previous year.
- viii) Charitable purpose does not include any purpose the whole or substantially the whole of which is of a religious nature.
- ix) No deduction under Section 80G shall be allowed in respect of any donation unless such donation is of a sum of money.
- x) The institution shall not violate the provisions of Section 13.
3. The institution seeking exemption shall fulfill the conditions specified in Sub-Section (5) of Section 80G of I.T.Act, 1961.
4. Further, it is stated that the approval u/s 80G(5) of the Act granted vide this order is subject to obtaining registration by the above institution from the competent authority of Government of Andhra Pradesh u/s 43 of the A.P.Charitable and Hindu Religious Institutions & Endowments Act, 1987, and furnishing a copy of such order of Registration in this office for record, within a period of 6 (six) months from the date of receipt of this order. In support of this stipulation, reliance is placed on the decision of the Hon'ble Supreme Court in the case of Biharilal Jaiswal and others Vs.Commissioner of Income Tax & Others (217 ITR 746), wherein it was held that *one arm of law cannot be utilized to defeat the other arm of law and doing so would be to oppose to public policy and would bring the law into ridicule*, and also the decision of the Hon'ble Andhra Pradesh High Court, in the case of M/s New Noble Educational Society & others Vs Chief Commissioner of Income Tax & Anr (2011) 334 ITR 303 in the context of matter of approval u/s 10(23C)(vi) of the Act, wherein it was held that the Chief Commissioner of Income Tax, can prescribe registration under AP Act 30 of 1987 within a specified period as a condition, subject to which approval may be granted u/s 10(23C)(vi) of the Act.

Sd/-

(C.R.PATI)

Director of Income Tax (Exemptions)
Hyderabad.

Copy to :

1. Choice Foundation,
F-202, Emkay Manor,
Plot No.30, Main Road,
Srinagar Colony, Hyderabad - 500 073.
2. Copy to the DDIT (E)-II, Hyderabad



(M. BHARADWAJA)
Income Tax Officer(H.Qrs)(Exem)
O/o DIT(E), Hyderabad