

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.997/Bang/2023
Assessment Year: 2019-20

K.R. Madhusudhan (HUF) No.1399, 37 th B Cross 4 th T Block Jayanagar Bangalore 560 040 PAN NO : AALHK5060P	Vs.	ACIT CPC Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Shri Prathik P., A.R.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Department.

Date of Hearing	:	09.01.2024
Date of Pronouncement	:	09.01.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against the order of NFAC passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”) dated 6.10.2023 for the assessment year 2019-20. The assessee has raised following grounds of appeal:

- 1. The appellate order passed by the ld. CIT(A), in the facts and under the circumstances, is grossly opposed to facts and law.*
- 2. The learned Commissioner of Income-tax (Appeals) has grossly erred in law in holding that the appellant was not entitled to the benefit of deduction under Sec. 80GG in respect of the rent paid by the appellant in respect of the residence occupied by him.*
- 3. The impugned order passed by the learned Commissioner of Income-tax (Appeals) records a perverse finding in so far as it claims that no reply regarding the admissibility of deduction under Sec. 80GG was furnished, when*

factually detailed written submissions on the admissibility of the deduction were furnished during the course of the appellate proceedings.

4. *The learned Commissioner of Income-tax (Appeals) has grossly erred in holding that the benefit of deduction under Sec. 80GG was available only to an individual and not a Hindu Undivided Family when the provision makes no such distinction.*
5. *Without prejudice, it should have been appreciated that the property let out by the appellant was in the nature of a commercial property and therefore did not attract the disqualification in the proviso to Section 80GG which only refers to a residential accommodation.*
6. *It should have been appreciated that where no residential accommodation was owned by the appellant, and the fact that rent was paid by it for the residential accommodation occupied by it, it was eligible for the benefit of deduction u/s 80GG of the Act.*
7. *The appellant craves for leave to add to, to delete from and to amend the grounds of appeal
Tax effect Rs.14,970/-*

2. Facts of the case are that the assessee claimed deduction u/s 80GG of the Act at Rs.60,000/- and the same has been denied by the ld. AO on the reason that deduction u/s 80GG of the Act is available to the individual only and not to the HUF. As such, according to the ld. AO, the assessee has not fulfilled the basic condition to grant deduction u/s 80GG of the Act and the same has been confirmed by the NFAC. Against this assessee is in appeal before us.

3. We have heard the rival submissions and perused the materials available on record. In our opinion, a plain reading of section 80GG of the Act does not suggest that the said deduction is only available to individual assessee. On the other hand, said section mentions only assessee and not specifying the nature of assessee. Being so, on this ground, deduction u/s 80GG of the Act cannot be denied. However, we make it clear that assessee has to file appropriate Form in Form No.10BA, so as to claim the deduction u/s 80GG of the Act. Accordingly, the issue is remitted to the file of ld. AO to grant deduction

u/s 80GG of the Act after considering the Form No.10BA read with Rule 11B of the I.T. Rules, 1963. Ordered accordingly.

4. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 9th Jan, 2024

Sd/-
(George George K.)
Vice President

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 9th Jan, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.

