OFFICE OF THE  
COMMISSIONER OF INCOME TAX, PANCHKULA.

Name of the assessee : Zila Yuva Vikas Sanghthan,  
V & PO – Kesri  
Distt. - Ambala

Date of Order : 07.07.2009.

ORDER U/S 80-G (5) OF THE INCOME TAX ACT, 1961:

The Society is registered on 19.01.2006 under the Societies Registration Act, 1860. It has also been registered u/s 12AA of Income-tax Act, 1961 on 31.05.2007 and was accorded approval u/s 80G(5) of Income-tax Act, 1961 on 31.05.2007 upto 31.03.2009. The request has been received for renewal of deduction u/s 80G(5) vide application in Form No. 10G dated 21.04.2009. In support of the various activities carried out by the Society, Sh. A.D. Gandhi, C.A. attended and produced the relevant records. Having regard to the objects and nature of activities carried on by the society, renewal u/s 80G(5) is granted for the period 01.04.2009 to 31.03.2012, subject to the following conditions:

i) Total expenditure on religious expenditure shall not exceed 5% of the total receipts / income, as per provisions of section 80G (5B) of I.T. Act, 1961.

ii) Receipts issued to the donors should bear the number and date of this order and should state clearly that this certificate is valid for the period mentioned above.

iii) The Income & Expenditure Account and Balance Sheet should be submitted alongwith the Income tax returns annually to the Assessing Officer having jurisdiction over the case.

ii) The amendments, if any, made to the trust deed should be intimated to this office immediately.

iii) No change in the deed of the Trust /Association shall be affected 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) The trust registered u/s 12 AA(1)(b) shall have to maintain separate books of account in respect of any business activity carried on u/s 80G (1)(a) and shall intimate within one month of commencement of such activity to this office.

v) Under the provisions of section 80G, any donation received shall not be utilized for the purpose of any such business carried on whether directly/indirectly to comply with the above.

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vi) While issuing the certificate to the donor, the commitment made above should be honoured and it shall not be abused / used for any other purposes.

vii) The Trust shall ensure that no non charitable purpose shall be served by the Trust/Society/Non Profit Company and which is informed in terms of Yogiraj Trust reported in 103 ITR 777 (S.C.).

x) It shall be ensured that at no time the Trust utilize the institution or its funds for the benefit of any particular religious community or caste prohibited u/s 80G(5)(iii).

viii) This certificate does not confer any right on the Trust /Institution/Fund to claim exemption from Income tax in its assessment. The Assessing Officer may separately examine if the assessee is charitable within the meaning of section 2(15) of the Act and whether the condition laid down in section 11, 12, 12A (b) and 13 are satisfied.

ix) This order shall be deemed to be withdrawn, if the Assessing Officer holds that the income of the assessee is not exempt u/s 11 and 12 or clause 23AA or clause 23C of section 10 with effect from the date of such order.

Sd/-

(Y. K. BATRA)
Commissioner of Income tax,
Panchkula.

F. No. CIT/Pkl/Tech/80G/2009-10/ 1789
Office of the
Commissioner of Income tax,
Panchkula.

Dated: 16/7/09

Copy to: -

1. Zila Yuva Vikas Sangthathan, V & PO – Kesri, Distt. - Ambala
3. The ITO, Ward-1, Ambala. The A.O. should verify and satisfy himself w.r.t the annual statement which will be submitted by the applicant that it continues to fulfill the conditions laid down under section 80G and instructions issued by the Board from time to time.
4. The Secretary, CBDT, North Block, New Delhi.
5. The Director of Income tax (RSP&PR), Mayur Bhawan, New Delhi.

(Kanta Kuchari)
Income Tax Officer, HQ (Tech.)
Panchkula.
CIRCULAR
INCOME-TAX ACT
Section 10(23C)(iv) of the Income-tax Act, 1961 - Exemptions - Charitable or religious trusts/institutions - Clarification regarding period of validity of approvals issued under section 10(23C)(iv), (v), (vi) or (via) and section 80G(5) of the Income-tax Act

CIRCULAR NO. 7/2010 [F. NO. 197/21/2010-ITA-I], DATED 27-10-2010

The Board has received various references from the field formations as well as members of public about the period of validity of approvals granted by the Chief Commissioners of Income-tax or Directors General of Income-tax under sub-clauses (iv), (v), (vi) and (via) of section 10(23C) and by the Commissioners of Income-tax or Directors of Income-tax under section 80G(5) of the Income-tax Act, 1961.

2. It has also been noticed by the Board that different field authorities are interpreting the provisions relating to the period of validity of the above approvals in a different manner. The following instructions are accordingly issued for the removal of doubts about the period of validity of various approvals referred to above.

3. Sub-clauses (iv) and (v) of section 10(23C) were amended by Taxation Laws (Amendment) Act, 2006 by insertion of the following proviso to that clause:—

"Provided also that any (notification issued by the Central Government under sub-clause (iv) or sub-clause (v), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall at any one time, have effect for such assessment year or years, not exceeding three assessment years) (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification."

The intention behind the insertion of the above proviso was laid out in the relevant portion of the explanatory notes to the Taxation Laws Amendment Act, 2006 which reads as under:

"A need has been felt to dispense with the requirement of periodic renewal of notifications. The requirement of periodic renewal of notifications has been resulting in delays in their renewal.

5.2 In order to overcome delays, the eighth proviso to section 10(23C) has been amended so as to provide that the above mentioned limit of effectivity for three assessment years shall be applicable in respect of notifications issued by the Central Government under sub-clause (iv) or sub-clause (v) before the date on which Taxation Laws (Amendment) Bill, 2006 receives the assent of the President.

5.3 The Taxation Laws (Amendment) Bill, 2006 received the assent of the President on 13-7-2006. Therefore, on account of the above amendment any notification issued by the Central Government under the said sub-clause (iv) or sub-clause (v), on or after 13-7-2006 will be valid until withdrawn and there will be no requirement on the part of the assessee to seek renewal of the same after three years."

The intention of legislature that the approvals under section 10(23C)(iv) and (v) after the cut off date mentioned above would be a one time approval which would be valid until withdrawn, is thus sufficiently clear.

4. Approvals under sub-clauses (vi) and (via) of section 10(23C) are governed by the procedure contained in rule 2CA. Rule 2CA was amended with effect from 1-12-2006, inter alia by substitution of the existing sub-rule 3 by a new provision which is reproduced below:—

"(3) The approval of the Central Board of Direct Taxes or Chief Commissioner or Director General, as the case may be, granted before the 1st day of December, 2006 shall at any one time have effect for a period not exceeding three assessment years."

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In isolation, without any further guidance as was given by way of explanatory notes to Finance Act, 2006 in respect of amendment of sub-clauses (iv) and (v) of section 10(23C), the above amendment leaves some scope for doubt about the period of validity of the approval under section 10(23C)(vi) and (via) on or after 1-12-2006. For the removal of doubts if any in this regard, it is clarified that as in the case of approvals under sub-clauses (iv) and (v) of section 10(23C), any approval issued on or after 1-12-2006 under sub-clause (vi) or (via) of that sub-section would also be a one time approval which would be valid till it is withdrawn.

5. As regards approvals granted upto 1-10-2009 under section 80G by the Commissioners of Income-tax/Directors of Income-tax, proviso to section 80G(5)(vi) clarified that any approval shall have effect for such assessment year or years not exceeding five assessment years as may be specified in the approval. The above proviso was deleted by the Finance (No. 2) Act, 2009. The intent behind the deletion of above proviso as explained in the explanatory memorandum to Finance (No. 2) Bill, 2009 was as under:

"Further as per clause (vi) of sub-section (5) of section 80G of the Income-tax Act, 1961, the institutions or funds to which the 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 provides 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.

Due to this limitation imposed on the validity of such approvals, the approved institutions or funds have to bear the hardship of getting their approvals renewed from time to time. This is unduly burdensome for the bona fide institutions or funds and also leads to wastage of time and resources of the tax administration in renewing such approvals in a routine manner.

Therefore, it is proposed to omit the proviso to clause (vi) of sub-section (5) of section 80G to provide that the approval once granted shall continue to be valid in perpetuity. Further, the Commissioner will also have the power of withdraw the approval if the Commissioner is satisfied that the activities of such institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund. This amendment will take effect from 1st day of October, 2009. Accordingly, existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn."

It appears that some doubts still prevail about the period of validity of approval under section 80G subsequent to 1-10-2009, especially in view of the fact that no corresponding change has been made in Rule 11A(4). To remove any doubts in this regard, it is reiterated that any approval under section 80G(5) on or after 1-10-2009 would be a one time approval which would be valid till it is withdrawn.