

OFFICE OF THE
COMMISSIONER OF INCOME-TAX, GUWAHATI-II,
SAIKIA COMMERCIAL COMPLEX,
SREENAGAR, G. S. ROAD, GUWAHATI-781005.

F. No. 35/80G/CIT/GHY-II /TECH/2004-05/.....³⁷⁹⁷

Date : 23-11-2005

To

The President
AARANYAK, 'Evergreen',
Samonway Path, Basistha Road,
Survey, Beltola, Guwahati-28.

Sub : Deduction u/s 80G of the I.T. Act, 1961 in respect of donation made to AARANYAK, Eligibility for intimation - regarding

Please refer to your application dt. 31-01-2005, on the above subject.

In view of the facts stated by you, I am to inform you that donation made to AARANYAK, ' ', during the period from 01-04-2005 to 31-03-2010 relevant to the assessment year 2006-07 to 2010-11 will be /will continue to be eligible to the benefit of deduction u/s 80G of the Income-tax Act, 1961 in the hands of the donors subject to the limits and conditions laid down on the said section.

The contents thereof shall remain valid up to the assessment year 2010-11.

NOTE :

- (i) Return of income will have to be filed before the Assessing Officer concerned every year as per requirement of section 139(4A).
- (ii) The statement of Income & Expenditure with Balance Sheet will have to be filed before the Assessing Officer concerned annually.
- (iii) The receipt issued to the donor should bear the number and date of issue of the this communication.
- (iv) Amendments, if any, made to the constitution should be intimated to this office, immediately.
- (v) Fresh application will have to be filed for renewal of similar benefits beyond the assessment year 2010-11 in Form No. 10G prescribed by Rule 11AA of the I. T. Rules, 1962, in triplicate, if considered necessary and in such events the application should be accompanied with:-

Cont..2/

- (a) A statement of facts as to whether there has been any change in the instrument under which the Trust/Institution was constituted up to the date of application for renewal and if so, copies of the amended deed is to be furnished.
- (b) Copies of Income & Expenditure statement and Balance Sheet of the Institution of fund for the last **3(Three)** years.
- (c) A certificate from the Auditor showing the position as dealt within section 13(I)(c) of the I. T. Act, 1961 along with Audit Report in Form No. 10B.
- (d) In making the application for renewal of exemption, this office reference No. and date may please be quoted.

SEAL OF THE
COMMISSIONER OF INCOME-TAX.

Sd/-
(N. L. MAO)
Commissioner of Income-tax, Guwahati-II,
Guwahati.

Memo No 35/80G/CIT/GHY-II/TECH/2004-05.....

Dated :

Copy to :

1. The Addl. Commissioner of Income Tax, Range-3, with reference to his letter No R-9/JCIT/R-3/GHY/2005-06/310 dated 17-5-2005, for information. He is instructed to examine the accounts carefully for every year having regard to the provision of section 11, 12 and 13 read with section 12A and 80G(5) and should ascertain every year if the Trust/Institution is one to which section 80G(5) ceases to apply for the reason whatsoever, and if be found the section 80g(5) ceases to apply in this case, the AO should promptly report the facts with details reason thereof to this office. It should be clearly understoodner of Income Tax, Ghy-II that this letter does not put a final seal in the hands of the AO who will be at liberty and also duty bound to examine such cases as per provision of Income-tax Act, 1961.
2. The Chief Commissioner of Income-tax, Guwahati .
3. The Secretary , Central Board of Direct Taxes, New Delhi.
4. The Director of Income-tax (RSP &PR), New Delhi.
5. The Assistant Commissioner pf Income Tax Circle-3, Guwahati.
6. The CIT, Jorhat.
7. The CIT, Dibrugarh.
8. The CIT, Shillong.

(Niranjan Hazarika)
Income Tax Officer (Technical)
for, Commissioner of Income Tax, Guwahati-II

EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE (NO.2) ACT, 2009

Explanatory Circular for Finance (No.2) Act, 2009

27.3 The limit for severe disability has been amended to Rs.1 lakh. However, the limit for ordinary disability has been retained at the existing level of Rs.50,000.

1 **Applicability**-The above amendment has been made applicable with effect from 1st April, 2010 and will accordingly apply in respect of assessment year 2010-11 and subsequent years.

2 **Deduction in respect of interest on loan taken for higher education**

28.1 Section 80E of the Income-tax Act provides for a deduction to an assessee, being an individual, on account of any amount paid by him in the previous year by way of interest on loan taken from any financial institution or any approved charitable institution for the purpose of pursuing higher education in specified fields of study.

28.2 Under the existing provisions, the deduction was available only for pursuing full time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics.

28.3 With the objective of fostering human capital formation in the country, the provisions of section 80E of the Income Tax Act have been amended by substituting clause (c) of sub-section (3) so as to extend its scope to cover all fields

1st April, 2008 and ending on 31st March, 2009.

29.3 Applicability - This amendment has been made applicable with effect from 1st April, 2009 and will accordingly apply in relation to assessment year 2009-10 only.

29.4 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 Rule, 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 bonafide institutions or funds and also leads to wastage of time and resources of the tax administration in renewing such approvals in a routine manner.

29.5 Therefore, the proviso to clause (vi) of sub-section (5) of section 80G has been omitted to provide that the approval once granted shall continue to be valid in perpetuity.

29.6 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.

29.7 Applicability - This amendment has been made applicable with effect from 1st October, 2009. Accordingly, existing approvals expiring on or after 1st October, 2009 will be deemed to have been extended in perpetuity unless specifically withdrawn. However, in case of approvals expiring before 1st October, 2009, these will have to be renewed and once renewed these shall continue to be valid in perpetuity, unless specifically withdrawn.

Exemption certificate issued under section 80G would be deemed to have been extended in perpetuity unless specifically withdrawn.

IT : Exemption certificate issued u/s 80G would be deemed to have been extended in perpetuity unless specifically withdrawn

IT : Since proviso to Clause (vi) of subsection (5) of section 80G has been omitted, there remains no requirement to seek renewal in every assessment year. [Section 80G of the Incometax Act, 1961 Deductions – Donation to certain funds, charitable institutions]

1 Once the exemption granted stands extended in perpetuity by operation of law, merely moving an application by the assessee would not divest it of the aforesaid right

[2011] 10 taxmann.com 241 (All.)

HIGH COURT OF ALLAHABAD

Babu Hargovind Dayal Trust

v.

ITAT PRADEEP KANT AND VEDPAL, JJ. WRIT PETITION NO. 556(MB) OF 2011

FEBRUARY 7, 2011