

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

सुश्री सुचित्रा काम्बले, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1102/Ahd/2024
निर्धारण वर्ष /Assessment Year : N.A.

Mahajan Awas Foundation FP No.300/23, Kanya Gurukul, Near St.Ann's School Nr.Hira Jain Society Ramnagar, Sabarmati Ahmedabad - 380 005 (Gujarat)	बनाम/ v/s.	The CIT (Exemption) Anandnagar-Prahaladnagar Road Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AAOCM 0161 D		
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Deven Kapadia, AR
Revenue by :		Shri H. Phani Raju, CIT-DR

सुनवाई की तारीख/Date of Hearing : 29/08/2024
घोषणा की तारीख /Date of Pronouncement: 10/09/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

The present appeal has been filed by the assessee, Mahajan Awas Foundation against the order dated 28.03.2024 passed by the CIT (Exemption), Ahmedabad (hereinafter referred to as "CIT(E)"), rejecting the assessee's application for approval under section 80G(5) of the Income Tax Act, 1961.

The assessee is before us with following grounds of appeal:

1. *The CIT(Exemption), Ahmedabad has erred in rejecting the appellant's application filed for approval under clause (il) of first proviso to section 80G(5) of the Income Tax Act, 1961 as well as provisional approval granted u/s 80G(5) of the Act by wrongly deeming objects of the appellant as religious in nature ignoring the fact that no single penny paisa has been spent on activities of the trust which is religious in nature.*
2. *The CIT (Exemption), Ahmedabad has erred in misinterpreting the spirit and intent of clause (iii) of First Proviso to Section 80G(5) while applying it to present case by dismissing the application filed vide clause (iii) of First Proviso to Section 80G(5) without considering the fact that inclusion of word "Jainism" in object clause by no stretch of imagination be considered religious in nature.*
3. *The CIT (Exemption), Ahmedabad has erred by rejecting application without considering settled judicial pronouncements and submission and/or supporting evidences in which it is clearly explained as to how the objects of the applicant cannot be interpreted as religious in nature.*
4. *The appellant seeks a fair and impartial evaluation of its application for approval under clause (ili) of first proviso to section 80G (5), taking into consideration the genuine intentions and good faith efforts of the appellant. The rejection of the application by the CIT (Exemption), Ahmedabad without due consideration, violates the principles of natural justice and causes unnecessary hardship on the part of the appellant.*
5. *On the facts and merits of the case appellant craves for admission of additional evidences in the interest of natural justice and equity.*

The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.

2. During the course of the hearing before us, the Ld.Authorised Representative (AR) of the assessee stated that the rejection was based on the claim that the objects of the assessee were religious in nature, particularly focusing on Jainism. The assessee submitted audited financial statements and vouchers for expenses, establishing that all expenditure was directed toward charitable purposes such as environmental conservation, social upliftment, and support for underprivileged communities. The Ld.AR sated that no expenses were incurred for religious purposes. The Ld.AR argued that the Ld.CIT (Exemption) failed to take into account these

documents, which clearly demonstrated the genuine nature of the activities. The Ld.AR also relied on various judicial pronouncements including the **judgement of Hon'ble Allahabad High Court in the case of Sri Radha Raman Niwas Trust (2014) 42 taxmann.com 77 (All.)**.

3. The Ld.Departmental Representative relied on the order of the Ld.CIT(E).

4. Upon reviewing the objects of the assessee, it is clear that they are aimed at promoting universally accepted values such as sustainable living, environmental conservation, and social welfare. The mention of Jainism in the object clause is only to indicate the source of certain values, such as 'ahimsa' (non-violence) and 'aparigraha' (non-possessiveness), which are applicable to society at large and not restricted to any particular religious group.

4.1. The assessee has provided audited financial statements and supporting vouchers, which show that no funds have been used for religious purposes. All expenses have been directed toward charitable activities, as confirmed by the documents on record. The Ld.CIT (Exemption) failed to properly assess these documents, which provide a clear indication that the assessee's activities are charitable.

5. We find merit in the assessee's contention that the inclusion of the word "Jainism" in its objects does not render the objects religious. In the case of *Sri Radha Raman Niwas Trust (supra)*, the Hon'ble High Court held that even if certain activities are rooted in religious tradition, they cannot be

classified as religious if they are aimed at the general public and not for the benefit of a particular community. In this case, the assessee trust's objects included conducting religious ceremonies, such as "Akhand Naam Sankirtan" (meditation and spiritual chanting), and providing food during festivals (Bhandara). The Commissioner had denied approval under section 80G of the Act, citing that the activities were religious and not charitable. However, the Hon'ble High Court overruled the Ld.CIT's decision, observing that while activities like Akhand Naam Sankirtan and Bhandara have religious undertones, they serve the general public without any restriction based on caste or religion. The Court held that unless it is proved that these activities were confined to a specific religious community, they should be regarded as charitable, not religious. The Court emphasized that promoting values such as meditation, yoga, and providing food during festivals benefits society as a whole, irrespective of the religious origin of the activities.

5.1. This ruling is relevant to the present case. The assessee's objectives include promoting universally accepted ethical values such as non-violence (ahimsa), truth (satya), and environmental conservation, which are derived from Jainism but are intended for the welfare of society as a whole. As held in the *Sri Radha Raman Niwas Trust* case, the mere mention of a religious tradition or philosophy does not disqualify a trust from being charitable, as long as its activities are for the general public utility and not restricted to a specific religious group.

5.2. At the stage of registration and approval, it is not necessary for the Ld.CIT(E) to assess the application of income or how the funds will be

utilized in future years. The focus should be on whether the trust's activities benefit society at large. The assessee in the present case has provided sufficient evidence, including audited financial statements and vouchers, to demonstrate that all its expenditures were for charitable purposes, such as providing relief to the underprivileged and protecting the environment.

5.2. The assessee has been granted final registration under section 12AB of the Act after verification of its activities. This registration is a strong indication that the assessee's activities are genuine and charitable. The Ld.CIT (Exemption) should have considered this fact before rejecting the application under section 80G of the Act.

5.3. We find that the Ld.CIT (Exemption) failed to consider the assessee's submissions and supporting evidence, thereby violating the principles of natural justice. The assessee was not afforded a fair opportunity to present its case, as the Ld.CIT (Exemption) disregarded key documents and judicial precedents that were favorable to the assessee.

5.4. We are of the view that the rejection of the assessee's application for approval under section 80G(5) of the Act by the Ld.CIT (Exemption) was unjustified. The assessee's objects are charitable, and no evidence has been provided to show that it has engaged in religious activities. Furthermore, the final registration granted under section 12AB of the Act corroborates the charitable nature of the assessee's activities.

5.5. The order of the Ld.CIT(E) is set aside. The matter is remanded back to the Ld.CIT(E) for fresh consideration, with specific directions to grant

approval under section 80G(5) of the Act, after considering the evidence provided by the assessee, including its audited financial statements and the vouchers of expenses, which establish the charitable nature of its activities. The Ld.CIT (Exemption) shall provide the assessee with a reasonable opportunity of being heard before passing a fresh order.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 10th September, 2024 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 10/09/2024

टी.सी.नायर, व.नि.स।T.C. NAIR, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)/CIT(Exemption), Ahmedabad
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजोक्ट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, ITAT, Ahmedabad