

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 695 & 696/JPR/2024

Vardhman Sathanakvasi Jain Sravak Sangh Sravak Sangh Social Wrok Shg NGO Sec. Mahaveer, Bhawan Pandal Lokhan Kotri, Ajmer.	बनाम Vs.	The CIT Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAQAS5068M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (C.A.)
राजस्व की ओर से / Revenue by : Shri Ajey Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 13/08/2024
उदघोषणा की तारीख / Date of Pronouncement: 27/09/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

The present two appeals filed by assessee, are arising out of the order of the learned Commissioner of Income Tax (Exemptions), Jaipur both dated 23.03.2024 [for short "CIT(E)"] passed for registration U/s 12AB and recognition for 80G of the Income Tax Act [for short Act] respectively.

2.1 In ITA No.695JPR/2024 the assessee has raised following grounds: -

" 1. The Ld. CIT(E) has erred on facts and in law in rejecting the application filed

by the assessee u/s 12A(1)(ac)(iii) in form No. 10AB seeking registration u/s 12AB of IT Act, 1961 by incorrectly holding that (i) assessee has not submitted the copy of original deed while the same was filed vide reply dt. 22.03.2024 (ii) object of the society is for the benefit of particular community, i.e. Jain Shwetamber Community ignoring the amended trust deed dt. 29.01.2023 wherein all the objects are related to humanity and (iii) assessee has not proved the genuineness of its activities as no reply was filed in response to notice dt. 18.03.2024 whereas detailed reply was filed vide letter 22.03.2024.

2. The Ld. CIT(E) has further erred on facts and in law in cancelling the provisional registration granted by CIT u/s 12A(1)(ab)(vi) of IT Act, 1961.

3. The appellant craves to alter, amend and modify any ground of appeal.

4. Necessary cost be awarded to the assessee.”

2.2 In ITANo.696/JPR/2024 the assessee has raised following grounds: -

“1. The Ld. CIT(E) has erred on facts and in law in rejecting the application filed by the assessee in Form No. 10AB seeking approval under clause (iii) of first proviso to Section 80G(5) of IT Act, 1961 on the ground that (i) approval u/s 80G cannot be granted without registration 12AB (ii) object of the society is having elements of religious nature which is in violation of section 80G(5)(ii)(iii) object of the society is for the benefit of shwetamber Jain Community violating section 80G(5)(iii) and (iv) application filed is not within the time limit..

2. The Ld. CIT(E) has further erred on facts and in law in canceling the provisional approval granted by CIT under clause (iv) of first proviso to section 80G(5) of IT Act, 1961.

3. The appellant crave to alter, amend and modify any ground of appeal.

4. Necessary cost be awarded to the assessee.”

3. First, we take up the appeals of the assessee in ITA no. 695/JPR/2024, wherein the brief fact of the case is that the assessee filed online application in Form No. 10AB seeking registration u/s 12AB of the

Income Tax Act, 1961 on 30.09.2023. A letter/notice dated 28.01.2024 was issued at the e- mail/address provided in the application requiring the assessee to submit certain documents/explanations by 09.02.2024. In response no reply filed by assessee. A further reminder was given on 10.02.2024 and case fixed for 15.02.2024. Against that assessee filed reply dated 14.02.2024, Id. CIT(E) examined and found some discrepancies. Thus, a show cause letter dated 18.03.2024 fixing the case on 22.03.2024 was given to assessee to furnish reply/documents on the issues mentioned in show cause letter.

In response applicant-assessee filed its reply on 22.03.2024 but too is for the queries raised for the application u/s 80G only, which was examined along with its annexure but not found tenable. Here Id. CIT(E) noted that earlier too assessee's application was rejected vide order dated 26.09.2020 on the grounds of not proving genuineness of activities, discrepancy in dissolution clause and non-compliance to the notices issued by the office of Id. CIT(E) and verification of the annual accounts.

In present case too assessee not furnished copy of original society deed, but only furnished amended deed. In absence of original deed, it cannot be ascertained for what purpose such society was created and other

issues. Since it was a limitation matter, the case was decided on the basis of material filed by the assessee along with its application in Form no. 10AB. Thereby the registration u/s. 12AB rejected on the following grounds:

- Non submission of copy of original deed
- Object for the benefit of particular caste/community
- Non genuineness of activities and non-compliance.

4. So far as the appeal in ITA No. 696/JPR/2024 we note that the said application for registration u/s. 80G of the Act was rejected on the following grounds:-

- Approval u/s 80G cannot be granted without registration u/s 12AB.
- Religious objects violation of 80G(5)(ii).
- Meant expressed for benefit of Shwetamber jain community violating section 80G(5)(iii).
- Commencement of activities.

Ld. CIT(E) also noted that since the assessee failed to give proper justification for regularization of provisional approval, thus, he also cancelled the provisional registration granted to the assessee.

5. Feeling dissatisfied from the above orders of the Id. CIT(E), the assessee has preferred the present appeals on the ground as stated hereinabove. In support of the various grounds so raised the Id. AR appearing on behalf of the assessee has placed reliance on the written submission which is extracted herein below:-

"Facts:-

1. The assessee is an old trust constituted with the object of general public utility. It is registered under Societies Registration Act, 1860 on 23.07.1955(PB 25). It is also registered with DevasthanVibhag, Jaipur under Rajasthan Public Trust Act, 1959 on 16.06.1970(PB 24). The trust deed was first amended on 31.03.2008 (PB 26-35) and thereafter again amended on 29.01.2023 (PB 12-23).
2. The assessee applied for provisional registration u/s 12A(1)(ac)(vi) of the Act on 30.01.2023 and provisional approval u/s 80G(5) of the Act on 21.02.2023. It was granted provisional registration u/s 12A(1)(ac)(vi) of the Act on 06.02.2023 for AY 2023-24 to 2025-26 (PB 1-2) and also provisional approval u/s 80G(5) on 28.02.2023 from 28.02.2023 to AY 2025-26.
3. The assessee moved an application in Form No.10AB seeking permanent registration u/s 12AB of the Act and permanent approval u/s 80G of the Act on 30.09.2023. The Ld. CIT(E) held that (i) assessee has not submitted the copy of original deed (ii) object of the society is for the benefit of particular community, i.e. Jain Shwetamber Community and (iii) assessee has not proved the genuineness of its activities. Therefore the application for registration was rejected and the provisional registration granted to the assessee was also cancelled. Further the application for permanent approval u/s 80G was also rejected for the reason that (i) approval u/s 80G cannot be granted without registration u/s 12AB (ii) object of the society is having elements of religious nature which is in violation of section 80G(5)(ii) (iii) object of the society is for the benefit of Shwetamber Jain Community violating section 80G(5)(iii) and (iv) application filed is not within the time limit and the provisional approval granted to the assessee was also cancelled.

Submission:-

1. The Ld. CIT(E) in its order has observed that assessee has not furnished reply to the show cause notice dt. 18.03.2024(PB 104-106)by stating that reply filed on 22.03.2024 was only for the queries raised for application u/s 80Gand in the

absence of original deed/ dissolution clause it could not be ascertained what will be the treatment of the property of assessee. This is incorrect as against the said show cause notice, reply was filed on 22.03.2024 (PB 107-114) along with the original constitution(PB 115-122). Further clause 26 of the amended constitution (PB 23) specifically provides that on dissolution the asset of the society would be merged with other society having same object and registered u/s 12AA of the Act. Thus the registration refused by CIT(E) on this ground is unjustified.

2. The Ld. CIT(E) by referring to the constitution dt. 31.03.2008 (PB 26-35) and by referring to section 13(1)(b) of the Act and the decision of Hon'ble Supreme Court in case of CIT Vs. PalghatShadi Mahal Trust 254 ITR 212 & CIT Vs. Dawoodi Bohra Jamat held that assessee is making distinction on the basis of religion and restricting several benefits only for Jain Shwetamber Community. It is submitted that CIT(E) has incorrectly observed that assessee is meant for the benefit of Jain Shwetamber Community. From the object clause of constitution dt.31.03.2008 (PB 26-27)as amended by constitution dt.29.01.2023 (PB 12-13), it can be noted that all objects of the assessee are related to humanity and for community development. It is not restricted to Jain Shwetamber Community. In the object clause where Jain is referred, it is with reference to following and spreading the fundamental principles laid down by Bhagwan Mahaveer which shows the path in which a person should lead his life. This cannot be equated with following a particular religion. Even Mahatma Gandhi has stated with conviction that the doctrine for which name of Lord Mahaveer is glorified nowadays is the doctrine of Ahinsa. If anyone has practiced to the fullest extent and has propagated most the doctrine of Ahinsa, it was Lord Mahaveer. Even the State Government vide letter dt. 25.01.2024 (PB 36) has acknowledged to allot a land and to provide security to the Jain sadhu during chaturmasvihar. It is not the case of the CIT(E) that all the objects of the assessee are only for the benefit for Jain Shwetamber Community. Sec.13(1)(b) is applicable when the trust is created or established for the benefit of any particular religious community only. Therefore, the observation of Ld. CIT(E) that the trust is constituted for the benefit of Jain Shwetamber Community is not correct. Reliance is placed on the following cases:-

CIT Vs. Dawoodi Bohara Jamat (2014) 364 ITR 0031(SC)

The relevant Para 44 & 49 of this decision is reproduced as under:-

“44. In the instant case, the Tribunal has found on facts after analysing the objects of the trust that the respondent- trust is a public religious trust and its objects are solely religious in nature and being of the opinion that Section 13(1)(b) is solely meant for charitable trust for particular community, negated the possibility of applicability of Section 13(1)(b) of the Act at the outset. The High Court has also confirmed the aforesaid view in appeal and observed that Section 13(1)(b) would only be applicable in case of income of the trust for charitable purpose established for benefit of a particular religious community. In our

considered view, the said view may not be the correct interpretation of the provision.

49. In the present case, the objects of the respondent-trust are based on religious tenets under Quran according to religious faith of Islam. We have already noticed that the perusal of the objects and purposes of the respondent-trust would clearly demonstrate that the activities of the trust though both charitable and religious are not exclusively meant for a particular religious community. The objects, as explained in the preceding paragraphs, do not channel the benefits to any community if not the Dawoodi Bohra Community and thus, would not fall under the provisions of Section 13(1)(b) of the Act.”

CIT Vs. Paramhans Ashram Trust (1993) 203 ITR 711 (Raj.)

The relevant extract from Para 4 of the order is reproduced as under:-

“4. According to the main objects, the maintenance of the existing Dharamshalas, help of Agarwal and other widows and children, feeding of mendicants and construction of new dharamshalas and schools, and help of the destitutes cannot be said to be restricted in respect of a particular individual or group of them. The use of word "object of general public utility" can be interpreted to cover such trust where the intention is to give the benefit to sizeable number of public in contrast of to an individual or group of individuals. The expenses in constructing the new Dharamshala were considered in advancement of the charitable object of the trust which was held entitled to exemption under s. 11 of the said Act in the case of Satya Vijay Patel Hindu Dharamshala Trust vs. CIT (1972) 86 ITR 683 (Guj) and this Court in Raghunath Das Parihar Dharamshala vs. CIT (1986) 158 ITR 432 (Raj) has held that the sole purpose of the trust was to run a dharamshala which is an object of general public utility and so when this was the sole object, the income derived therefrom in shape of rent from the income of dharamshala is exempt under s. 11 r/w s. 2(15) of the Act. Similarly, the other objects of help of Agarwals, widows and children, feeding of mendicants and help of destitutes are of general public utility and the Tribunal has rightly come to the conclusion that the assessee is a public charitable and religious trust and its income is entitled to exemption under s. 11 of the IT Act, 1961.”

Diocese of Pune (CNI) Vs. CIT (2015) 42 ITR (Trib.) 348 (Pune)

Assessee trust was created vide Deed of Trust and was registered vide Certificate of Registration issued by Asst. Charity Commissioner. Commissioner requisitioned assessee to furnish certain documents and details of charitable activities carried out by assessee trust in last three years, proof of filing of return of income. Commissioner held that objects of assessee were not charitable in strict sense of term and, instead, were religious as same were meant for benefit of specific religious community. Prime thrust of trust was to provide for benefit of particular religious community. Consequently, application moved by assessee seeking grant of registration u/s 12A was rejected. CIT held that activities carried on by trust were meant for members of specific community and thus assessee

was established for benefit of specific religious community attracting provisions of sec. 13(1)(b). Therefore no purpose would be served by granting registration u/s 12A. Held, perusal of objects of trust reflected that though some of objects were for benefit of Christian community in particular, others were strictly not for Christian community in particular, but both for purposes of Christian community and other public at large. Objects of trust must be looked into and those objects could be either charitable or religious in nature or both charitable or religious in nature. Apparently, one of objects of assessee trust was to provide ambulance facility to people at large. Some were admittedly relating to Christian community. However, other objects were to provide ambulance facility to people at large, to establish and administer educational institutions for needy and deserving Christian students in particular and others in general, to establish hostels, libraries, etc. for Christian boys and girls in particular and other deserving &needy boys and girls in general. Objects of assessee trust thus, reflect activities to be carried on for purpose of specific religion and also for purpose of public at large. It could not be held that assessee was meant for benefit of only specific religious community. Findings of CIT were reversed.

CIT Vs. Christian Medical College (2015) 374 ITR 17 (P&H) (HC)

Assessee society was established in financial year 1949-50 and had been granted registration u/s 12A. Assessee had also been granted exemption u/s 80G and last exemption was granted upto assessment year 2011-12. Assessee filed application in Form No.10G for renewal of exemption u/s 80G on 22.12.2010. CIT(A) on perusal of memorandum of association and bye-laws found that aims and objects of society were in violation of Explanation 3 to Section 80G(5) (iii). It was held by CIT that aims and objects of assessee-Society were of religious nature and since "charitable purpose" did not include any purpose, whole or substantially whole of which was of religious nature. Exemption granted was withdrawn by CIT. ITAT allowed appeal of assessee and set aside order of CIT(A) holding that assessee was entitled to registration u/s 80G(5). Assessee was registered as charitable institution u/s 12A and registration granted there under was valid even for current assessment year. ITAT further noticed that assessee society was established and run by minority Christian community but as aim and object of assessee was to train professionals in field of medical and health care and also to provide medical facilities in their hospitals to all persons of any caste, creed, race, language, religion etc. Activities carried out by assessee were charitable in nature. Assessee was registered as charitable institution u/s 12A and said registration was being continued to be granted to assessee society even for year under consideration. Primary aim of assessee society was to train men and women as health professionals in spirit of Jesus Christ and said facility of training health professionals and medical care was to be provided without consideration of caste, race, creed, language and religion. Assessee society had been running and maintaining Christian Medical College, Christian Dental College, Christian College of Nursing and other institutions, though on ideals and principles in spirit of Christian services, but for training professionals of any caste, creed, race,

religion etc. Medical care was provided by assessee society to all irrespective of their caste, creed or religion etc. Assessee society was established and run by minority Christian community, but as aim and object of assessee society was to train professionals in field of medical and health care and also to provide medical facilities in their hospital to all persons of any caste, creed, race, religion etc. Activities carried out by assessee society were charitable in nature and consequently, assessee was entitled to registration u/s 80G(5) and no merit in order of CIT(A) in this regard and reversing same, it held that renewal of registration u/s section 80G(5) was to be granted to assessee society.

Shiv MandirDevsttanPanch Committee SansthanVs. CIT (2012) 79 DTR 276 (Nag.)(Trib.)

In this case, assessee was duly registered u/s 12A of the IT Act. It filed an application in Form No.10G seeking approval u/s 80G(5)(vi) of the IT Act. CIT did not approved the same on the ground that one of the object clause of the trust deed i.e. worship of Lord Shiva, Hanumanji, goddess Durga& maintaining of temple, celebrating festivals like Shivratri, Hanuman Jayanti, Ganesh Utsav, renovation & maintenance of temple is religious in nature & the expenditure incurred for the fulfillment of these objects is for the benefit of a particular religious community.

It was held that the words 'religious community' means a group of people having a common religion or faith. The word 'religion' means the belief in & worship to a superhuman controlling power, specially the personal god or gods, a particular system of faith & worship. It means that the trust should not be for the benefit of any particular group of persons having common belief in worshipping of superhuman controlling power or having common system of faith & worship. If the trust is for the benefit of any particular religious community, it would include the advancement, support or propagation of a religion & its tenets, and it could be said that a trust has violated the condition of sec. 80G(5)(iii). However, in the present case, the object of worshipping Lord Shiva, Hanumanji, goddess Durga& maintaining of temple cannot be regarded as object of advancement, support or propagation of a particular religion. They do not relate to Hindu religion as Lord Shiva, Hanumanji & goddess Durga do not represent any particular religion, they are merely regarded to be the superpower of the universe. No material or evidence has been brought on record by the Department to prove that any person coming, worshiping & maintaining the temple has to follow a particular code of ethical rules & has to carry out the prescribed rituals, observances, ceremonies & modes of worship. Anybody can come to the temple & avail of all the facilities available to the public at large. Even if the object is regarded to be religious, Hinduism is a way of life & as such not a religion. Hindus consists of number of communities having different gods who are worshipped in different manner by different rituals. Even worship of god is not essential for a person who has adopted Hinduism way of life. Hinduism holds within its fold men of divergent view & traditions who have very little in common except a vague faith in what may be called the fundamentals of Hinduism. Thus, it cannot be said that Hindu

is a separate community or a separate religion. Hence, expenses incurred on worshipping Lord Shiva, Hanumanji, goddess Durga & maintenance of temple cannot be regarded to be for religious purpose. Therefore, CIT was not justified in refusing approval to assessee trust u/s 80G(5) & he is directed to grant the same.

It is further submitted that similar issue is decided by the Hon'ble ITAT Jaipur Bench in case of Shri Digamber Jain Mandir, Godhaji ITA No.742/JP/15 order dt.28.07.2016. In this case also, the Ld. CIT was of the view that the society has been created for the benefit of persons belonging to Jain Samaj only but after considering the fact that there are other objects which fall under the category of charitable purpose which cannot be construed as solely of the benefit of particular religious community and following the judgment of Hon'ble Supreme court in case of CIT vs. Dawoodi Bohra Jamat 364 ITR 31 directed the CIT to grant registration to the assessee trust.

3. As per section 12AB of the Act, the CIT on receipt of the application made by the assessee u/s 12A(1)(ac) of the Act shall call for such document or information or make such enquiries as he thinks necessary to satisfy about the genuineness of the activities and the compliance of such requirement of any other law for the time being in force as are material for the purpose of achieving its objects. Thus he is not required to examine the applicability of section 13(1)(b) which is to be considered by the AO at the time of assessment. For this proposition reliance is placed on the following case laws:-

Jamiatul Banaat Tankaria Vs. CIT(E) (2024) 205 ITD 673 (Ahd.) (Trib.)
The relevant Para 5 to 12 of the order reads as under:-

5. We have gone through the decision of Hon'ble Apex Court in the case of Dawoodi Bohara Jamat (supra) and we find that the Id. CIT (Exemption) has totally mis-appreciated the decision rendered by the Hon'ble Apex Court in the said case. The Hon'ble Apex Court, we find, in the said case had categorically held that Trust with charitable objects, which existed for the benefit of a particular religious community qualified as charitable entity serving the public at large and this was sufficient for grant of registration under section 12A of the Act, and the provisions of section 13(1)(b) of the Act would be attracted only at the time of granting exemption to the assessee, wherein if it was found that the trust existed for the benefit of a particular religious community only, the exemption under section 11 was to be denied to the assessee. The Hon'ble Apex Court, therefore, categorically found that as per the provisions of law, section 13(1)(b) could not be applied for denying the grant of registration, but was to be applied only while granting/denying exemption to the assessee.

6. It is pertinent to note that the Hon'ble Apex Court has categorically held in the said decision that section 13(1)(b) comes into picture and is to be applied only when the eligibility of exemption of income in terms of provisions of section 11 is

to be determined and not at the time of grant of registration. The Hon'ble Apex Court has categorically stated that the assessee has to first cross the hurdle of being eligible to exemption under section 11 by obtaining a certificate of registration under section 12A in this regard. Having crossed this hurdle, only then the provisions of section 13(1)(b) would come into picture, and a trust which is for the benefit of particular community, but its objects are otherwise charitable, is a valid trust for the purpose of grant of registration.

7. The Id.CIT(Exemption), in the present case, we find, has only picked a portion of the order of the Hon'ble Apex Court, wherein it has been held that the provisions of section 13(1)(b) of the Act would be applicable to a trust with mixed objects i.e. both charitable and religious. But he has failed to take note of the finding of the Hon'ble Apex Court that section 13(1)(b) would apply only at the time of grant of exemption under section 11, and not at the time of grant of registration under section 12A of the Act.

8. Our view is further supported by the decision of the Hon'ble jurisdictional High Court in the case of CIT Vs. Bayath Kutchi Dasa Oswal Jain Mahajan Trust, (2017) 8 ITR-OL 494 (Guj) wherein on the issue of denial of grant of registration u/s 12A of the Act by invoking section 13(1)(b) of the Act, it was categorically held that the provisions of section 13 would be attracted only at the time of assessment and not at the time of grant of registration. The relevant finding of the Hon'ble High Court at para 8 of his order is as under:

"8. Thus, very premise for the Commissioner to come to the conclusion that the objects of the trust were confined for the benefit of a religious community, is incorrect. Thereafter to suggest that the activities were carried out only for such purposes would be entering in the realm of granting exemptions in terms of section 13 of the Act, which would be the task of the Assessing Officer to be undertaken at the time of assessment on the basis of material that may be brought on record."

9. Even otherwise, we have gone through the objects of the trust, which were placed before us in the 'statement of facts' which are as under:

"1. Propagation and campaign of any sort of Religious and worldly cultivated activities, training and education, to maintain and administer Urdu English & Arabic Language cultivation and training, Cultivation of craft and industrial training.

2. To do welfare activities for upbringing and development of each section of the society.

3. To establish Children Nurseries, Primary schools, High schools, Colleges, Madressa, Masjid boarding houses, Hospitals, Dispensaries etc. And for that

accommodating fixed assets and to manage the same thereby. And to do every kind of charitable activities.

4. To make necessary arrangements for accommodation of poor people.

5. To help the Blind, Weak, Feverish people and those poor people who cannot run their lives.

6. To give Scholarships to Muslims Students for their studies and do make provisions so as they can get the religious education.

7. To give medical assistance in the events of requirement irrespective of caste and creed and to organise medical camps.

8. To help the poor, unhappy, orphan and economical poor classes and to help in burial and funerals

9. Cottage Industries, Rural Industries, Women Industries and to run each such activities to remove unemployment with the help of the government.”

10. The Ld.CIT(Exemption) has referred to object at S.no 6 which is providing scholarship to Muslim students for their studies and to make provision so as they can get religious education for arriving at his finding that the objects are for the benefit of a particular religious community- so as to invoke section 13(1)(b) of the Act. Further we find that the Ld.CIT(Exemption) notes that otherwise the objects are charitable in nature except for the aforesaid object. As per section 13(1)(b) exemption u/s 11 is denied if the trust is created or established for the benefit of a particular religious community. With majority of the objects found to be not catering to a particular community and no finding of the assessee actually catering for the benefit of a particular community, there is no case for invoking section 13(1)(b) of the Act in the present case. Therefore, we hold that even on merits the Ld.CIT(Exemption) was wrong in holding that section 13(1)(b) was applicable in the facts of the present case.

11. In view of the above, we hold that the objects of the trust are not wholly for the benefit of a particular religious community, but are largely charitable in character for general public at large, and for the purpose of granting registration under section 12A, the provision of section 13(1)(b) cannot be referred to, which is to be applied only when granting the exemption to the trust.

12. The order of the Id.CIT(Exemption) denying grant of registration is accordingly set aside, and the Ld. CIT (Exemption) is directed to grant the assessee-trust registration under Section 12A of the Act.

Anjuman E Nusratul Muslimin Tankaria Vs. CIT(E) (2024) 206 ITD 781 (Ahd.) (Trib.)

The relevant Para 6 to 8 of the order is reproduced as under:-

6. We have heard the rival contentions and perused the material on record. We observe that in the case of *Jamiatul Banaat Tankaria (supra)*, the Tribunal held that where objects of assessee-trust were primarily charitable rather than favouring any specific religious community, CIT (Exemption) was not justified in denying registration under s. 12A, by invoking s. 13(1)(b) as said provisions would be attracted only at time of assessment and not at time of grant of registration. In the case of *Malik Hasmullah Islamic Educational and Welfare Society (2013) 85 DTR (Lucknow)(Trib) 302 : (2013) 153 TTJ (Lucknow) 635 : (2013) 24 taxmann.com 93 (Lucknow)*, the Tribunal held that since provisions of ss. 11, 12 and 13 are intended for exercise of jurisdiction by an AO in an assessment proceedings, CIT is not competent to invoke such provisions for purpose of declining registration under s. 12AA. In the case of *St. Joseph Academy 50 taxmann.com 216 (Hyd)(Trib)*, the Tribunal held that provisions of s. 13 can be invoked by AO while framing assessment and not by Commissioner while considering application for registration under s. 12AA. In the case of *CIT vs. DawoodiBoharaJamat (2014) 102 DTR (SC) 361 : (2014) 268 CTR (SC) 1 : (2014) 43 taxmann.com 243 (SC)*, the Hon'ble Supreme Court made the following observations :

"40. Further, establishment of Madarsa or institutions to impart religious education to the masses would qualify as a charitable purpose qualifying under the head of education under the provisions of s. 2(15) of the Act. The institutions established to spread religious awareness by means of education though established to promote and further religious thought could not be restricted to religious purposes. The House of Lords in *Barralet vs. IR 54 Tax Cases 446*, has observed that "the study and dissemination of ethical principles and the cultivation of rational religious sentiment" would fall in the category of educational purposes. The Madarsa as a Mohomedan institution of teaching does not confine instruction to only dissipation of religious teachings but also contributes to the holistic education of an individual. Therefore, it cannot be said that the object (d) would embody a restrictive purpose of religious activities only. Similarly, assistance by the respondent-trust to the needy and poor for religious activities would not divest the trust of its altruist character.

41. Therefore, the objects of the trust exhibit the dual tenor of religious and charitable purposes and activities. Sec. 11 of the Act shelters such trust with composite objects to claim exemption from tax as a religious and charitable trust subject to provisions of s. 13. The activities of the trust under such objects would therefore be entitled to exemption accordingly.

42. We would now proceed to examine the objects under the provisions of s. 13(1)(b) of the Act. It becomes amply clear from the language employed in the provisions that s. 13 is in the nature of an exemption from applicability of ss. 11 or 12 and the examination of its applicability would only arise at the stage of claim under ss. 11 or 12. Thus, where the income of a trust is eligible for

exemption under s. 11, the eligibility for claiming exemption ought to be tested on the touchstone of the provisions of s. 13. In the instant case, it being established that the respondent-trust is a public charitable and religious trust eligible for claiming exemption under s. 11, it becomes relevant to test it on the anvil of s. 13."

7. In view of the above judicial precedents, looking into the facts of the instant case, we are of the considered view that the provisions of s. 13 of the Act can be invoked only at the time of assessment and not at the time of grant of registration under s. 12A of the Act. Our view is further supported by the decision of the Hon'ble jurisdictional High Court in the case of CIT (Exemptions) vs. Bayath Kutchhi Dasha Oswal Jain Mahajan Trust (2016) 74 taxmann.com 199 (Guj) wherein on the issue of denial of grant of registration under s. 12A of the Act by invoking s. 13(1)(b) of the Act, it was categorically held that the provisions of s. 13 would be attracted only at the time of assessment and not at the time of grant of registration. The relevant finding of the Hon'ble High Court at para 8 of his order is as under:

"8. Thus, very premise for the CIT to come to the conclusion that the objects of the trust were confined for the benefit of a religious community, is incorrect. Thereafter to suggest that the activities were carried out only for such purposes would be entering in the realm of granting exemptions in terms of s. 13 of the Act, which would be the task of the AO to be undertaken at the time of assessment on the basis of material that may be brought on record."

8. In the result, in view of the above observations, the matter is restored to the file of CIT (Exemption), for de novo consideration, after giving due opportunity of being heard and with the direction not to disentitle the assessee for grant of registration only on the grounds as mentioned in its previous order for rejecting the application filed by the assessee trust.

Parul University Alumni Association Vs. CIT(E) (2024) 206 ITD 162 (Ahd.) (Trib.)
The relevant Para 15 of the order is reproduced as under:-

15. In our considered view, looking into the objects of the trust, it cannot be held that the assessee/applicant trust has been formed only for the benefit of a particular community only. Further, we also agree with the counsel for the assessee that this aspect should be considered at the time of grant of exemption under s. 11 of the Act and the provisions of s. 13 should not be invoked at time of grant of registration under s. 12AA of the Act. In the result, the matter is being restored to the file of CIT(Exemptions) to examine the activities carried out by the trust (since we observe that the trust has been recently formed/registered) and to carry out the requisite analysis whether the trust is engaged in carrying out genuine activities, so as to be eligible for grant of registration under s. 12AA of the Act.

4. So far as the genuineness of activities is concerned, the Ld. CIT(E) has stated that assessee has not filed reply to the notice dt. 18.03.2024, not furnished details of the activities required vide notice dt. 28.01.2024, bills, vouchers & ledger account of expenses is not furnished, photographs of the activity is not furnished, details of donation of Rs.25,000/- made in FY 2022-23 is not furnished, details of bank transaction above Rs.20,000/- is not furnished, details of Chaturmas receipt is not furnished & charging against the activity is out of the purview of charitable institution and earlier also application of the assessee was rejected for not proving genuineness of the activities. All these observations are factually incorrect as explained hereunder:-
- (i) The assessee has furnished the reply dt. 22.03.2024 (PB 107-114) against the notice dt. 18.03.2024 (PB 104-106) where each of the issues raised in the notice was clarified but the Ld. CIT(E) failed to take notice of the reply.
 - (ii) The details required vide notice dt. 28.01.2024 (PB 6, Para 6) & 10.02.2024 was filed by the assessee on 01.03.2024 (PB 43-45) where the ledger account of major receipt & expenditure (PB 46-101) and copy of the vouchers were filed. Again vide letter dt. 22.03.2024 (PB 109), vouchers of expenses in excess of Rs.20,000/- explaining the nature of expenses was filed.
 - (iii) The assessee in its letter dt. 14.02.2024 at Point No.8 (PB 7) has explained that it do not collect photographs/ advertise in the newspaper about its activities. However, at Point No.11 (PB 8) assessee has furnished the photograph of premises from where the activities are conducted. Otherwise also, non furnishing of the photographs cannot be a reason to doubt the genuineness of activities.
 - (iv) Donation of Rs.25,000/- was given to Shri Seeta Gaushala, Ajmer. The constitution of Shri Seeta Gaushala and the registration granted to it u/s 12A(1)(ac)(i) was furnished vide reply dt. 22.03.2024 (PB 113 & 131-144).
 - (v) Details of bank transaction above Rs.20,000/- was furnished vide reply dt. 01.03.2024 (PB 45 & 102-103) and again furnished at Point No.7 of reply dt. 22.03.2024 (PB 113).
 - (vi) Chaturmas means the period of 4 months during which the sadhu-sant do not travel and stay at one place. During this period various persons come to visit them to listen their preachings. The donation given by them during this period is recorded in the books as Chaturmas receipt and the expenses incurred during this period is debited as Chaturmas expenses. The receipt is voluntarily donation from public at large and the expenses mainly includes organizing shivir of children during Chaturmas period by sadhu-sant and food expenses of the person coming from out of Ajmer for listening the preachings of sadhu-sant. No charges are recovered from persons listening the preachings of sadhu-sant. This was explained in reply dt. 22.03.2024 (PB 113 & 110). Thus it is incorrect on part of CIT(E) to held that assessee is charging against its activity. The ledger

account of Chaturmas expenses and Chaturmas receipt for FY 2021-22 is at PB 46-62 and for FY 2022-23 is at PB 71-77& 98-101.

- (vii) The assessee has earlier applied for registration u/s 12AA in January, 2020 but due to Covid 2019 the notice dt. 20.06.2020 could not be complied with and therefore the application was rejected vide order dt. 26.09.2020 as explained at Point No.14 (PB 8) of reply dt. 14.02.2024. However, the CIT(E) has wrongly stated that the application was rejected for not proving the genuineness of activities.

From the above it can be noted that Ld. CIT(E) has incorrectly held that the applicants activities is not genuine whereas assessee has furnished all the documentary evidences to prove the genuineness of activities.

5. The Ld. CIT(E) by referring to notice dt. 18.03.2024 where clause (ka), (dh), (jha) & (ta) of the deed are considered as religious in nature denied the approval u/s 80G of the Act. It may be noted that these clauses are of charitable purpose and not of religious nature. Even the expenditure on Mahaveer Jayanti and Chaturmas are not religious expenses but charitable expenses as explained above. The Ld. CIT(E) has referred to the constitution dt. 31.03.2008 whereas assessee has requested for registration and approval on the basis of the constitution dt. 29.01.2023. Thus the activities of assessee are of charitable nature and not religious nature, hence the approval u/s 80G cannot be denied for this reason.
6. The Ld. CIT(E) has also denied the approval u/s 80G(5) on the ground that application filed is not within the time limit. It is submitted that sub-cl. (iii) of the first proviso to sec. 80G(5) provides that assessee shall make an application for grant of approval where it has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier. In the present case, assessee being an old trust has already commenced its activities. Words "or within six months of commencement of its activities, whichever is earlier" occurring in said sub-cl. (iii) are applicable to newly formed trust/institution. For the existing trust/institution, the time-limit for applying for regular registration is within six months of expiry of provisional registration. The assessee has filed the application on 30.09.2023 whereas the provision registration is in force till 31.03.2025. Thus the application filed is in time. For this purpose reliance is placed on the following cases:-

Bhamashah Sundarlal Daga Charitable Trust Vs. CIT(E) (2024) 233 DTR 161 (Jodhpur) (Trib.)

Words, "within six months of commencement of its activities" in sub-cl. (iii) of proviso to sec. 80G(5) apply to those trusts/institutions which have not started charitable activities at the time of obtaining provisional registration and not for those trust/institutions which have already started charitable activities before

obtaining provisional registration. Since the assessee trust had received provisional approval u/s 80G(5) for the period from 16th Aug., 2022 to AY 2025-26, the application in Form No. 10AB filed by the assessee on 11th Jan., 2023 was within the time allowed under the Act and hence maintainable.

T.B. Lulla Charitable Foundation Vs. CIT(E) (2024) 236 DTR 61 (Pune) (Trib.)

As per sub-cl. (iii) of the proviso to sec. 80G(5), the institution which is granted provisional registration has to apply for regular registration at least six months prior to expiry of the provisional registration or within six months of commencement of activities, whichever is earlier. Words "or within six months of commencement of its activities, whichever is earlier" occurring in said sub-cl. (iii) are applicable to newly formed trust/institution. For the existing trust/institution, the time-limit for applying for regular registration is within six months of expiry of provisional registration if they are applying under sub-cl. (iii). This will be the harmonious interpretation. In this case, assessee received provisional approval under s. 80G(5) vide orders dt. 9th July, 2021 for the period from AYs 2021-22 to 2023-24 and dt. 22nd Sept., 2022 for the period from AYs 2023-24 to 2025-26. Hence, the application in Form No. 10AB filed by the assessee on 8th April, 2023 is within the time-limit allowed under cl. (iii) of first proviso to sec. 80G(5). Even otherwise, the provisional approval is effective upto AY 2025-26 and the CIT(Exemptions) has not mentioned about any violation by the assessee. Therefore, the rejection is not sustainable. CIT(Exemptions) is directed to treat the application as filed within statutory time and verify assessee's eligibility for approval as per the Act.

Vananchal Kelavani Trust Vs. CIT(E)(2024) 205 ITD 619 (Surat) (Trib.)

Where assessee trust filed application in Form No. 10AB for approval under clause (iii) of first proviso to sub-section (5) of section 80G and Commissioner(Exemption) having noted that assessee had not filed application within time limit as stated in clause (iii) of third proviso to sub-section (5) of section 80G rejected application as not maintainable, since phrase 'whichever is earlier' used in clause (iii) of third proviso to section 80G(5) was applicable only to newly constructed trust and not to old trust, delay in filing Form No. 10AB deserved to be condoned.

7. Otherwise also, CBDT vide Circular No. 7/2024 dt. 25.04.2024 has extended the time for filing the application for permanent approval till 30.06.2024 whereas in earlier Circular No. 6/2023 dt. 24.05.2023 the time for filing application for permanent approval u/s 80G was not extended till 30.09.2023. Therefore, on harmonious interpretation of both the circular, the application filed by the assessee on 30.09.2023 be considered as filed in time. The Hon'ble Madras High Court in case of Sri Nrisimha Priya Charitable Trust Vs. CBDT & Anr. (2024) 8 NYPCTR 418/ 161 Taxmann.com 209 (Case laws compilation index PB 46-53) has held that the cl. (ii) of the Circular dt. 24th May, 2023 is arbitrary and violative of Art. 14 of the Constitution of India and accordingly, would be ultra vires the Constitution and therefore directed to consider the applications of the

petitioners as to the recognition/approval u/s 80G(5). The head note of the decision reads as under:-

Deduction under s. 80G—Recognition of institution, etc. under s. 80G(5)—Validity of Circular No. 6 of 2023, dt. 24th May, 2023 regarding extension of time—On a combined reading of the earlier Circular No. 8 of 2022 and the impugned Circular No. 6 of 2023, it can be clear that the only reason which is shown for the exercise of the powers is that these trusts faced hardship since they could not apply on time—No reason whatsoever is mentioned to omit "the cl. (i) of the first proviso to sub-s. (5) of s. 80G" in respect of the new trusts applying under Form No. 10AB alone—Even though the new trusts as well as the existing trusts have no right to demand for extension of time as a matter of right, when the respondents have thought it fit to extend the time, considering the hardship, there is no material which is placed before this Court nor any reasoning is contained in the impugned order that the new trusts did not face the hardship in respect of filing of the application under s. 80G(5) alone—Therefore, leaving out the clause in respect of s. 80G(5) alone that too only in respect of the new trusts does not in any manner relate to the object sought to be achieved by the impugned circular nor does it provide any basis for the discrimination/classification—In the instant case, the differential treatment is not based on any substantial distinction that is real and pertinent to the object of the circular—Discrimination is artificial—Respondents are evasive and could not provide any rationale for such a classification—Accordingly, the impugned cl. (ii) of the Circular, dt. 24th May, 2023 is arbitrary and violative of Art. 14 of the Constitution of India and accordingly, would be ultra vires the Constitution—First respondent is directed to consider the applications of the petitioners as to the recognition/approval under s. 80G(5).

8. It is further submitted that the Ld. CIT(E) has also cancelled the provisional registration by referring to section 12AB(1)(b)(ii)(B) and the provisional approval by referring to second proviso to section 80G(5). It may be noted that as per the above sections if the Commissioner is not satisfied, he can reject the application for permanent registration/approval and also cancelled its registration/approval. However, there is no provision which gives the power to the CIT(E) to cancel the provisional registration/approval from inception. At the most the registration/approval can be cancelled from the date of order rejecting the permanent registration/approval. Hence the order passed by CIT(E) cancelling the provisional registration and provisional approval from 06.02.2023/28.02.2023 is illegal & bad in law.

In view of above, Ld. CIT(E) be directed to grant permanent registration u/s 12AB and permanent approval u/s 80G(5) of the Act.”

5.1 To support the various grounds so raised by the Id. AR of the assessee, relied upon the following evidences in support of the contentions so raised:-

S. No.	Particulars	Pg No.
1.	Copy of order dt. 06.02.2023 granting provisional registration u/s 12A(1)(ac)(vi) of IT Act for AY 2023-24 to AY 2025-26	1-2
2.	Copy of acknowledgement and reply filed on 15.02.2024 in response to notice dt. 10.02.2024	3-11
3.	Copy of amended trust deed dt. 29.01.2023	12-23
4.	Copy of registration certificate dt. 16.06.1970 issued by Devasthan Vibhag under Rajasthan Public Trust Act, 1959	24
5.	Copy of registration certificate dt. 23.07.1955 under Registration of Societies Act, 1860	25
6.	Copy of amended trust deed dt. 31.03.2008	26-35
7.	Copy of letter dt. 25.01.2024 of State Govt. for providing security & allotment of land	36
8.	Photo of premises of the assessee	37
9.	Copy of Balance Sheet and Income & Expenditure A/c for FY 2022-23	38-39
10.	Copy of Balance Sheet and Income & Expenditure A/c for FY 2021-22	40-41
11.	Copy of Balance Sheet and Income & Expenditure A/c for FY 2020-21	42
12.	Copy of acknowledgement and copy of further reply filed on 01.03.2024 in response to notice dt. 10.02.2024	43-45
13.	Copy of ledger account of Chaturmas Expenses for FY 2021-22	46-48
14.	Copy of ledger account of Chaturmas Receipts for FY 2021-22	49-62
15.	Copy of ledger account of Gas Expenses for FY 2021-22	63-64
16.	Copy of ledger account of Hotel Rent for FY 2021-22	65
17.	Copy of ledger account of Repair & Maintenance for FY 2021-22	66
18.	Copy of ledger account of Salary Expenses for FY 2021-22	67-68
19.	Copy of ledger account of Donation received for building for FY 2021-22	69-70
20.	Copy of ledger account of Chaturmas Receipts for FY 2022-23	71-77
21.	Copy of ledger account of Donation Receipts for FY 2022-23	78-79
22.	Copy of ledger account of Jeevdaya Receipts for FY 2022-23	80-90
23.	Copy of ledger account of Membership Fee Form Receipts for FY 2022-23	91-92
24.	Copy of ledger account of Salary Expenses for FY 2022-23	93-95
25.	Copy of ledger account of Electricity Expenses for FY 2022-23	96-97

26.	Copy of ledger account of Misc. Expenses (Food, Jeevdaya, Building Repair) for FY 2022-23	98-101
27.	Details of bank transactions in excess of Rs.20,000/- for FY 2021-22 & 2022-23 in UCO Bank	102-103
28.	Copy of notice dt.18.03.2024 for proceedings u/s 12A(1)(ac)(iii) of IT Act	104-106
29.	Copy of acknowledgement and copy of reply filed on 22.03.2024 in response to notice dt.18.03.2024	107-114
30.	Copy of the original constitution of the assessee	115-122
31.	Copy of provisional Balance Sheet and Income & Expenditure A/c for the period 01.04.2023 to 28.02.2024	123-124
32.	Vouchers of construction expenses incurred during FY 2023-24	125-126
33.	Details of bank transactions in excess of Rs.20,000/- for FY 2021-22 & 2022-23 in Union Bank	127-129
34.	Copy of invoice of medical expenses of SadhviGyanlata	130
35.	Copy of rules & regulation of Shree Sita Gaushala	131-141
36.	Copy of orderdt.02.10.2021 granting registration u/s 12A(1)(ac)(i) of IT Act for AY 2022-23 to AY 2026-27 to Shree Sita Gaushala	142-144
37.	Copy of acknowledgement and copy of reply filed on 15.02.2024 in response to notice dt.10.02.2024u/s 80G(5)(iii) of IT Act, 1961	145-146
38.	Copy of notice dt.18.03.2024 issued u/s 80G(5)(iii) of IT Act, 1961	147-148
39.	Copy of acknowledgement for further reply filed on 23.03.2024 in response to notice dt.18.03.2024	149
40.	Copy of acknowledgement and copy of reply filed on 22.03.2024 in response to notice dt.18.03.2024	150-152

5.2 The Id. AR of the assessee in furtherance to the written submission also vehemently argued that the assessee is old, registered trust of 1955 doing charitable activities. The assessee is also registered under the Rajasthan Public Trust Act, 1959. The application for the registration of the trust u/s. 12AB was rejected on three counts. First one non submission of original copy of original deed. Object clause of the assessee is for caste / community and non-genuineness of activities and non-compliance by the assessee. In the connection Id. AR of the assessee submitted that the copy

of original trust deed was submitted by assessee on 22.03.2024 and the order was passed on 23.03.2024 contending that the assessee has not submitted reply for 12AB but was for 80G and the copy of the constitution was placed on record vide paper book page 115-122. Thereafter the deed was amended the same was also placed on record of the Id. CIT(E). So in the interest of the justice Id. AR submitted that here the principles of natural justice is violated and the assessee be given a chance to argue the case based on these set of facts. As regards the second issue of caste / community for particular religion the case is covered by the decision of this Jaipur bench of ITAT in the case of Digamber Jain Mandir ITA no. 742/JP/2015 dated 28.07.2016. As regards the third issue Id. CIT(E) noted that as the assessee did not comply with the details called it was concluded that the activities of the trust are not genuine. Thus, in summary he prayed to restore the matter to the file of the Id. CIT(E) in the interest of justice.

6. Per contra, the Id. DR relied on the orders of the Id. CIT(E). Ld. DR also submitted that the assessee has not provided the original trust deed and Id. CIT(E) has given finding based on the submission of the trust which was amended and placed on record vide letter dated 29.01.2023. At the same time Id. DR did not object to the prayer of the assessee for setting a

side to the file of Id. CIT(E). As regards the matter of 80G being consequential also not objected to set aside to the file of Id. CIT(E).

7. We have heard the counsel for both the parties and perused the material placed on record, judgment cited before us and the orders passed by the revenue authorities.

In ITA No. 695/JPR/2024, the assessee has taken two grounds of appeal. Ground no. 1 relates to the rejection of application of the assessee for permanent registration u/s 12AB of the Act. Second ground relates to the action of cancelling the provisional registration already granted to the assessee. The brief facts related to the dispute is that the assessee applied seeking registration u/s 12AB of the Act on 30.09.2023, while dealing with the application of the assessee, Id. CIT(E) has rejected the application of the assessee by taking 3 grounds for the rejection.

Against the first ground of rejection, the Id. AR of the assessee submitted that the assessee submitted that the original trust deed on 22.03.2024 (online paper book page 107) and the application was rejected on 23.03.2024. So, even though the assessee submitted that details same has considered as not submitted so the principles of natural justice is not

followed and Id. CIT(E) should consider the submission already placed on record.

As regards the observations made by Learned CIT(E) in para 3.4 of the impugned order that the objects of the applicant trust are not religious in nature, Learned CIT(E) referred to the decision in case of Commissioner of Income Tax vs. Palghat Shadi Mahal Trust, 254 ITR 212 wherein Hon'ble Apex Court held that any trust making discrimination on the basis of caste or religion, unless covered under explanation, i.e. meant for SC/ST cannot be considered charitable and thus is not eligible for registration under Section 12A.

On behalf of the appellant, reliance has been placed on decisions in the case of CIT vs. Dawoodi Bohara Jamat (2014) 364 ITR 31 (SC), CIT vs. Paramhans Ashram Trust (1993) 203 ITR 711 (Raj.), Diocese of Pune (CNI vs. CIT (2015) 42 ITR (Trib.) 348 (Pune), CIT vs. Christian Medical College (2015) 374 ITR 17 (P &H) (HC), Shiv Mandir Devsttan Panch Committee Sansthan vs. CIT (2012) 79 DTR 276 (Nag. Trib.) and Shri Digamber Jain Mandir, Godhaji in ITA No. 742/JP/15 vide order dated 28.07.2016 (Jaipur Trib.) in all the decisions cited, it was observed that the line of distinction between religious purposes and charitable purposes is

very thin and no water tight compartment between the two activities can be very well established.

Not only that as decided by the Hon'ble Apex Court in the case of CIT vs. Dawoodi Bohara Jamat (Supra) that the activities of the trust though both charitable and religious are not exclusively meant for a particular religion community the object of the trust are also though charitable in nature, but the registration was denied merely on account of the fact that the various objects are for a particular caste or community. It has also been decided by the Bench in various other similar cases that Jain community is not religion, but in fact a way of living life. The philosophy of Jainism is for non-violence concept, even though while doing so, Ld. CIT(E) has not established that the assessee has benefited from the activities only to a particular caste or community. But in fact the Jain philosophy is not any religion but away of living life and therefore, we are of the considered view that basis of the denial of the registration u/s 12AB of the Act is not correct. Even our High Court in the case of Umaid Charitable Trust vs. The Union of India (Uoi) And Ors. [171 Taxman 94 (Rajasthan)] held that

31. This Court is of the considered opinion that mere one contribution by the charitable trust to another trust which carried out repair and renovation of Lord Vishnu's temple does not disentitle the petitioner-trust from renewal of its exemption certificate under section 80G of the Act. The line of distinction between religious purposes and charitable purposes is very thin and no water tight compartment between the two activities can be very well-established.

Unless objective of the charitable trust in question itself is for spending its income for a particular religion and it is so found in the trust deed, the Income-tax Department cannot reject the renewal of the Trust as Charitable Trust under section 80G of the Act merely because one particular expenditure is for an activity which may be termed as spending for a particular religion. In the present case the repair and renovation of Lord Vishnu's temple does not necessarily mean that expenditure in question was for a particular religion only. All people who have faith in Lord Vishnu's temple belong to different sects and have faith in different religions and also visit such temple of Lord Vishnu. The revenue has not shown that entry in the said temple was restricted to the persons of one particular community or sect practicing one religion. Hinduism is not one particular religion and different sects following Hindu philosophy do visit temples of Lord Vishnu, be that Jains, Sikhs, Brahmins etc. There is no water tight compartment between different castes or sects following one particular religion. Freedom of religion is guaranteed in the Constitution of India under article 25 of the Constitution of India. Therefore, taking such a pedantic and narrow approach, it cannot be said that character of the Charitable Trust is lost if one particular expenditure is made for repair and renovation of Lord Vishnu's temple and that too by way of contribution to another trust. A perusal of the trust deed of the petitioner produced on record shows that objective of the trust was clearly charitable and was not for any particular religion even wholly or substantially. Nothing has been pointed out in the impugned order that the petitioner-trust has been constantly spending money for a particular religion. One should discern and imbibe with great respects the observations of Hon'ble Supreme Court in *Sri Jagannath Jew's case (supra)*.

32. This Court does not see any leaning in favour of any particular religion in trust deed of the petitioner-trust and therefore, once such exemption was granted to the petitioner trust, upon scrutiny of its application and it held the field for at least three years as is shown by the impugned order itself and trust deed indicates that said trust was constituted long back on 27-8-1963 and has been carrying on such charitable activities, this Court finds no justification for rejecting its renewal under section 80G of the Act which is a matter of right. The conditions of section 80G(5) read with *Explanation 3* do not stand violated in the present case.

Respectfully following that aspect of that the assessee trust is running charitable activities since 1955 and the finding is not clear as to which activity is of the religious in nature and thus, we considered it deem to set aside the matter to the file of the Id. CIT(E) who will decided based on the

record of the past activities undertaken by the assessee. Thus, on this ground we restore the matter to the file of the Id. CIT(E) to decide the issue accordingly.

As regards the third reason of non-genuineness and non-compliance related to the activities of the trust, Id. AR of the assessee submitted that in this case principles of natural justice are violated as the submission made on 22/23.03.2024 has not been considered by the Id. CIT(E), while passing the order on 23.03.2024. Considering all the facts as discussed herein above we consider it deem fit to remand the matter of registration of the assessee trust u/s. 12AB of the to the file of the Id. CIT(E) who will decide the issue afresh. At the same time the assessee is directed to produce all the relevant papers concerning the applications so filed before the Id. CIT(E) to settle the dispute raised hereinabove.

8. In respect of the ITA no. 696/JP/2024 relating to the application of the assessee for recognition of the trust as per provisions of section 80G of the Act. This application was rejected for four reasons the first one is that the assessee was not considered for registration u/s. 12AB and therefore, the same was not considered for recognition u/s. 80G of the Act and second reason was that the assessee has not filed the application within six

months from the start of the actives. Since for the issue of filling the application within six-month CBDT has extended those six month time line upto 30.06.2024 and since the matter of 12AB registration is set aside we considered it deem to set aside this issue of recognition for 80G of the Act also to the file of the Id. CIT(E). The third and fourth reasons are similar to the reasons in rejection of 12AB application and since that aspect of the matter we have set aside that matter to the file of the Id. CIT(E) we considered to set aside the appeal challenging the recognition u/s. 80G of the Act also to the file of the Id. CIT(E).

Based on these observations the appeal of the assessee in ITA no. 695/JPR/2024 and ITA no. 696/JPR/2024 are allowed for statistical purposes.

Order pronounced in the open Court on 27/09/2024.

Sd/-

(संदीप गोसाई)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठौड कमलेश जयंतभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 27/09/2024

*Santosh आदेश की प्रतिलिपि अग्रेशित / Copy of the order forwarded to:

1. The Appellant-Vardhman Sathanakvasi Jain Sravak Sangh, Ajmer.

2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त (अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA No. 695& 696/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar