

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

BEFORE MRS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No. 1103/Ahd/2024
निर्धारण वर्ष/Assessment Year: NA

Aryagram Virasat Foundation, P No. 300/23, Kanya Gurukul, Nr. Sent Ann School, Nr. Hira Jain Society, Ramnagar, Sabarmati, Ahmedabad-380005 PAN : AAQCA 9818 H	Vs.	Commissioner of Income- tax (Exemption), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :	Shri Devan Kapadia, AR	
Revenue by :	Shri V. Nandakumar, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 21.10.2024
घोषणा की तारीख /Date of Pronouncement: 25.10.2024

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER:

Present appeal has been filed by the assessee against the order of the learned Commissioner of Income-tax (Exemption), Ahmedabad [hereinafter referred to as "CIT(Exemption)" for short] dated 28.03.2024 denying the assessee grant of approval under Section 80G(5) of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short].

2. The grounds raised are as under:-

"1. The CIT (Exemption), Ahmedabad has erred in rejecting the appellant's application filed for approval under clause (ii) 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 "Ancient Indian Shastras and Scriptures" in object clause by no stretch of imagination be considered religious in nature.*

3. *The CIT (Exemption), Ahmedabad has erred in his approach by considering object of the institution wholly and substantially religious in nature on the basis of religion of directors of the appellant.*

4. *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.*

5. *The appellant seeks a fair and impartial evaluation of its application for approval under clause (iii) 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.*

6. *On the facts and merits of the case appellant craves for admission of additional evidences in the interest of natural justice and equity."*

3. The preliminary facts relating to the issue are that the assessee had been granted provisional approval/s 80G(5) in Form No. 10AC issued on 24.05.2022 ,in terms of clause (iv) of first proviso to sub-section (5) of Section 80G of the Act for the period commencing from 24.05.2022 to AY 2025-26. Thereafter, on 29.09.2023, the assessee filed Form No. 10AB seeking final approval under Section 80G(5) of the Act in terms of sub-clause (iii) thereof. It is this application of the

assessee which was rejected by the Id. CIT (Exemption), and the order of the Id. CIT (Exemption) reveals that it was rejected in terms of Section 80G(5)(iii)/5B of the Act, finding its objects to be religious in nature.

4. We have gone through the order of the Id. CIT (Exemption) and also heard both the parties before us; and we hold that the order of the Id. CIT (Exemption) denying approval to the assessee is not sustainable in law. The reason being very simple, that the assessee had explained in detail as to how its object was not religious and duly supported it with decisions of various judicial authorities, and the Ld.CIT(E) did not point out any infirmity in the same. On the contrary, surprisingly, the Id. CIT (Exemption) found that the assessee itself had accepted to be religious in character, which we find is incorrect, both with regards to the fact of acceptance by the assessee of its character being religious and even on merits of the object being religious in character.

5. This comes out clearly in the order of the Ld.CIT(E). At paragraph No. 6.2 of the order, where the show-cause notice issued to the assessee is reproduced, the Id. CIT (Exemption) refers to a particular object of the assessee-trust to point out that the creation of the trust was religious in nature. The same is reproduced hereunder:-

"Please refer to the online application, in Form no. 10AB, filed by you and the subsequent questionnaires dated 28.11.2023 issued to you. In the afore-said notice/letter certain details/information/clarifications were sought for and in response to the same, you have submitted details vide your reply submitted on 13.12.2023.

2. In this respect, your attention is drawn toward the object of trust stipulated in the Trust deed/instrument of creation of trust as under.

(A) THE MAIN OBJECTS TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION

“To creation and establishment of self-sufficient and sustainable townships based on the principles and tenets of Aryan Sanskruti, like, well governed life, candour, courtesy, nobility, straight dealing, courage, gentleness, purity, humanity, compassion, protection of the weak, liberality, observance of social duty, eagerness of knowledge, respect for the wise and the learned etc, as defined in Ancient Indian Shastras and scriptures, with emphasis on adhering to the core spiritual values of Nonviolence (Ahimsa), Truthfulness (Satya), Non-stealing (Achaurya), Celibacy (Brahmacharya), Nonmaterialism (Aparigraha), In all endeavors of human life, preservation and protection of environment and conservation of natural resources with a view to demonstrate to the contemporary generation, the way of life, actually followed by people who lived under the influence of true Aryan Sanskruti and achieving a very fine balance between survival of human life and mother nature, where the object of every endeavor is a march towards moksha ie, salvation, nurturing and growth of human and spiritual qualities, inner enrichment, promotion of brotherhood amongst all members of the society, provide answers and solutions to ills of modern day life like poverty, sickness, stress, feeling of isolation, falling moral and social values, lack of integrity in business and politics, environmental degradation etc.

2.1 From the above, it can be observed that above referred object in the trust deed/instrument of creation of trust is religious in nature. Therefore, this object of trust is not charitable in nature as per section 80G(5) of Income-tax Act, 1961. Also explain that as to how there is no violation of the section 80G(5B) of the Act read with clause (ii) of sub-section (5) and Explanation 3.

3. In this regard, you are requested to show cause as to why your application filed in Form 10AB, under clause (iii) of first proviso to sub-section (5) of Section 80G should not be rejected and also your provisional registration should not be cancelled for the reasons discussed in the above para 2.

4. *You are requested to submit the details/documents/clarification as sought above on or before 18.03.2024 at 11:00 AM.*

5. *Further, you are requested to note that in case of non-compliance/part compliance of said notice, the matter will be decided on the basis of facts/material available on record. Please note that this is a final opportunity and no requests for adjournment will be entertained.”*

6. As is evident from the above, **the specific object of the assessee-trust, noted to be religious in nature, pertained to creation and establishment of self-sufficient and sustainable townships where people would live a way of life based on the principles and tenets of Aryan Sanskruti as defined in “Ancient Indian Shastras and Scriptures”**. The Id. CIT (Exemption) has emphasized on the words **“Ancient Indian Shastras and Scriptures”** in his order, and it is, therefore, derived from this emphasis of the Id. CIT (Exemption) that the reference to the words **“Ancient Indian Shastras and Scriptures”** in the objects of the assessee-trust has lead the Id. CIT (Exemption) to believe this particular object-clause to be religious in nature.

7. Be that so, we note that the assessee filed a detailed reply in response to the show-cause notice pointing out what exactly religion/religious objects referred to and that its objects did not pertain to any religion but referred to “Shastras and Scriptures” which defined ways of life of a civilized society. The assessee pointed out that ‘religion’ referred to belief in and worship to a superhuman controlling power, specially the personal god or gods, a particular system of faith and worship. It was pointed out that the object referred to by the Id. CIT (Exemption) related to promoting a way of life and nowhere talked of advancement, support and propagation of a particular religion.

Reference was made to several decisions of the ITAT in support, more particularly the decisions in the case of :-

- (i) Sri Guru Nanak Devji Religious & Charitable Trust Vs. CIT(Exemptions), Hyderabad, ITA NO.384/CTK/2018 – for the proposition that while granting approval the Commissioner has to ensure that the fund or institution seeking approval is not for the benefit of any particular religious community or caste and is formed for the purpose of and is genuinely carrying out charitable activities.
- (ii) Shri Shruthiparampara Gurukulam Vs. ITO, Ward-3 (Exemptions), Bangalore – wherein it was pointed out that the ITAT had dealt with meaning of word ‘Veda’ as signifying the highest sacred, eternal and divine knowledge as well as the texts embodying that knowledge. That it is the earliest available literature of humanity and that ‘Veda’ cannot be said to be to a particular set of people or people belonging to a particular religion; that it is for the spiritual upliftment of mankind.
- (iii) CIT Vs. Sri Radha Raman Niwas Trust, [2014] 42 taxmann.com 77 (Allahabad High Court);-
For the proposition that to carry sewa puja of Sri Giridhari Ji and carry Akhand Naam Sankirtan uninterruptedly in Aashram is one type of meditation and yoga and is a charitable activity under Section 2(15) of the Act; that unless it is proved that the activities was for the benefit of a particular religion, community or group of persons, it cannot

be a ground to reject the registration u/s 12A and approval u/s 80G of the Act.

- (iv) M/s. Sri Channamallikarjuna Trust Committee Gangavathi Vs. CIT (E), ITA No. 1829/Bang/2018 dated 04.05.2022, explaining the difference between charitable purpose and religious purpose.
- (v) Vaidik Bhakti Sadan Asram Vs. CIT, [2015] 5 ITR (Trib.) 590 (Delhi), holding that the propagation of vedic thoughts and philosophy cannot be attributed to any religion as the same are more concerned with the lifestyle of the human beings.

8. The submissions of the assessee in this regard are reproduced in the order at paragraph No. 6.3 as under:-

“6.3 In response to the same, the applicant has filed response on 18/03/2024. The relevant portion of the same is reproduced hereunder:

"2. Sir, at the very outset, the applicant hereby declares that the applicant is a charitable institution and not a religious trust/institution. Further it has neither carried out any religious activity till now nor will do so in future. The applicant hereby re-iterates that in future applicant would be undertaking the activities related to Hospital, Gurukul, Gaushala, Ashwashala, Dharmshala, Bhojanshala and other social activities without any distinction as to caste, creed and religion.

3. Sir, the applicant would like to draw your kind attention to the provisions of Section 80G(58) of the Act which reads as under

"Notwithstanding anything contained in clause (6) of sub-section (5) and Explanation 3, an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent of

its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply."

Sir, as submitted earlier vide point no. 4a of part B of submission dated 13.12.2023, the applicant hereby reiterates that the applicant has not incurred any expenditure towards any religious activity. Same is also evident from the copies of audit reports submitted vide Annexure 4 of submission dated 13.12.2023. Copies of audit reports are attached herewith again for your ready reference marked as Annexure -1. Accordingly, there is no violation of section 80G(58) as the applicant has not incurred any expenditure of religious nature and nor will do so in future.

4. Further, clause (ii) of sub-section 5 of Section 80G and Explanation 3 of Section 80G reads as under:

"(ii) the instrument under which the institution or fund is constituted does not, or the rules

governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose:

Explanation 3- In this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature."

This explanation takes note of the fact that an institution or fund shall be for a charitable purpose and may have a number of objects. If any one of these objects is wholly or substantially wholly of a religious nature, then and then only the Institution or Funds falls outside the scope of section 80G and the donation to it will not make the donor entitled for the deduction u/s. 80G.

However, looking to the objects of the Institution in present case, objects of the applicant constitutes various charitable activities related to Hospital, Gurukul, Gaushala, Ashwashala, Dharmshala, Bhojanshala, and other social activities without distinction as to caste, creed and religion and none of the objects of the applicant are wholly or

substantially of religious in nature and hence it can be said that objects of the applicant are of charitable purpose and accordingly there is no violation of Section 80G(5) (ii) and explanation 3 of Section 80G.

5. Sir, the applicant would also like to draw your kind attention to the fact that as part of the objects of the applicant, the applicant has incurred expenditure towards object of medical relief during FY. 2023-24. The applicant hereby submits copy of voucher and request letter towards medical relief of the same for your ready reference marked as Annexure -2. Sir, the applicant has not spent even a single penny towards any religious activity.

6. Further, sir, in your above mentioned SCN, you have bold the word Ancient Indian Shastras and scriptures and defined this as religious. However, sir, it may please be noted that shastras and scriptures in no way define as religion or religious. Shashtra can be any shashtra even Vastu Shashtra which is followed by public at large irrespective of any religion and/or community and accordingly, above mentioned words are in no way religious and in no way represents any religious purpose. Shashtras and scriptures defines ways of life of a civilized society and these are not religion.

7. Further and without prejudice to the above, just inscribing any word in MOA does not make any institution religious. What matters is the activities carried out by the Trust/institution and the applicant has not carried out any activity of religious nature and nor is desirous of doing SO

8. Sir, since the matter revolves around religion, it is important to understand the meaning of religion. Sir, "religion" means the belief in and worship to a superhuman controlling power, specially the personal god or gods, a particular system of faith and worship. It means the trust should not be for the benefit of any particular group of persons having the common belief in worshiping of superhuman controlling power or having common system & faith and worship. If the trust is for the benefit of any particular religious community, it would include the advancement, support or propagation of a religion and its tenants, it could be said that a trust is a religious trust. However, the objects as has been pointed out by Hon'ble CIT (Exemption), nowhere talks of advancement, support or propagation of a particular religion.

9. Accordingly, as apparent from above, the applicant is not a religious trust/institution, neither it has undertaken any religious activity so far nor is desirous of doing so in future and is carrying out only charitable activities. Accordingly, there is no violation of section 80G(58) of the Act read with clause (ii) of sub-section (5) and Explanation 3.

10. The assessee hereby relies on below mentioned judicial pronouncements in support of its contention.

Sri Guru Nanak Devji Religious & charitable Trust Vs. CIT(Exemptions), Hyderabad, ITA No. 384/CTK/2018

In this case, it was held that for the purpose of grant of approval u/s 80G, what is to be seen by the Commissioner is that the institution or fund seeking approval is established for charitable purpose and is genuinely carrying out the activities of the institution or funds and further that it fulfills all the conditions laid down in clauses (i) to (v) of section 80G(5) of the Act. The conditions specified in the section 80G are primarily to the effect that the Commissioner has to ensure that the Fund or Institution seeking approval is appropriately constituted as specified in sub clause (v) is not for the benefit of any particular religious community or caste and is formed for the purpose of and is genuinely carrying out charitable activities. Copy of case law is attached herewith marked as Annexure-3

Shri Shruthiparampara Gurukulam vs. ITO, Ward -3, Exemptions, Bengaluru wherein ITAT Bengaluru observed that The word 'Veda' means knowledge and is derived from the Sanskrit word 'vid, which means to know The word "Veda" signifies highest sacred, eternal and divine knowledge as well as the texts embodying that knowledge. The significance of the Veda is manifold. It has been universally acknowledged that the Veda is the earliest available literature of humanity. The Veda contains the highest spiritual knowledge (Para vidya) as well as the knowledge of the world (Apara vidya). Thus, apart from philosophy, we find here descriptions of various aspects of the different subjects such as sciences, medicine, political science, psychology, agriculture, poetry, art, music etc. The Veda is unique in its purity and sanctity. The text of the Veda is preserved in its pure and original form without any alteration or interpolation even after thousands of years. The Veda is the unadulterated treasure house of true knowledge. So much so

that even UNESCO declared it as part of the Intangible cultural heritage of humanity. Despite being oldest, the Vedas have been preserved in their true form up till now. Even Max Muller, a renowned European scholar, has admitted that, the text of the Vedas has been handed down to us with such accuracy and care that there is hardly any change in the words, or there is any uncertain aspect in the whole of Vedas. The credit for this goes to Vedic seers (Rishis) who devised means of protecting and preserving the text of Vedas letter by letter, with all their accessories. Vedic mantras have accents (Swara) which preserve its original form of word- construction. It cannot be said that Vedas are confined to a particular set of people or people belonging to a particular religion. It is for spiritual up-liftment of mankind. ITAT further observed that it is settled principle that Hinduism is a way of life and not a religion. • The Hon'ble Allahabad High Court in CIT Vs. Sri Radha Raman Niwas Trust [2014] held that to carry sewa puja of Sri Giridhari Ji and carry Akhand Naam Sankirtan uninterruptedly in Aashram is one type of meditation and yoga and is a charitable activity under section 2(15) of the I.T. Act. The High Court held that unless it was proved that the above activities was for any particular community or group of persons, It cannot be a ground to reject the registration u/s 12A and approval u/s 80G of the I.T. Act.

The ITAT Bangalore bench in M/ s Sri Channamallikarjuna Trust Committee Gangavathi Vs. CIT (E) ITA No 1829/Bang/2018 (order dated 4.5.2022) explained the difference between charitable purpose and religious purpose and held as under-

"13. In sections 11, 12 & 13, a distinction has been drawn between 'charitable purpose' and religious purposes, but there is no definition of the term 'religious purpose' in the Act. Generally interpreted, it would encompass within its fold all institutions or funds, which are for the advancement, support or propagation of a religion and its tenets. How religion is to be understood in the context of the Act, has been examined in the case of Dawoodi Bhora Jamat (supra). If the benefit of religious endowments too ensures for the benefit of the public, then the religious trusts/endowments too will be entitled to the exemption provided by section 11 of the Act. A religious trust could be 'public' or 'private'. Section 13(1)(a) bars exemption to any private religious trust, which does not enure for the benefit of the public. Section 80G(5) (iii) makes a distinction in cases of institutions or

funds, which are for the benefit of any particular religious community or caste say for Hindus, Muslims, Christians or for Brahmins, etc. Donors to such trusts are debarred from claiming benefit of deduction from income for donations made to such trusts. Conversely, it follows that for donations made to religious bodies, which do not fall in the category mentioned in section 80G(5)(iii), benefit of deduction under section 80G can be claimed. Thus, it could be said that a public religious trust, not meant for the benefit of a particular community, caste or section, will be entitled to claim exemption on its income in the same way as a public charitable trust.

15. We are of the view that the objects and purposes of the Assessee are both charitable and religious, the Assessee does not exist exclusively for the benefit of a particular religious community. The objects do not channel the benefits to any community and thus, would not fall as an institution existing solely for religious purpose. In that view of the matter, we are of the view that the Assessee is a charitable and religious trust which does not benefit any specific religious community and therefore, it cannot be held that it exists solely for religious purpose. It cannot be characterized as religious object especially when it does not make a distinction between caste, creed, race, religion, etc.

16. In the light of the aforesaid discussion, we are satisfied that the plea of the Assessee to recognize it as existing for "Charitable Purpose deserves to be accepted and is accepted. We accordingly allow the plea of the Assessee and direct that the registration be allowed treating the Assessee as existing for "Charitable purpose".

In Vaidik Bhakti Sadan Asram (Delhi), the Tribunal held that propagation of vedic thoughts and philosophy cannot be attributed to any religion as the same are more concerned with the lifestyle of the human beings. The relevant observations are as under.-

"9. A perusal of the impugned order of the learned Commissioner of Income-tax shows that the renewal of registration under section 80G was denied by him to the assessee-trust mainly on three grounds which have already been enumerated by us while narrating the facts of the case in the foregoing portion of this order. At the time, of hearing

before us, learned counsel for the assessee has made elaborate submissions to meet all these objections raised by the learned Commissioner of Income-tax while denying exemption to the assessee under section 80G. As rightly pointed out by him, the objects and activities of the assessee-trust relating to propagation of vedic thoughts and philosophy cannot be attributed to any religion as the same are more concerned with the lifestyle of the human beings across the different religions and countries. It gets corroborated from the fact that yoga and self- meditation are being exercised and followed throughout the world by sections of people from different religions and different countries. These activities are thus not confined or attributed to any particular religion and the same, therefore, cannot be regarded as wholly or substantially of a religious nature. Moreover, as per the trust deed, neither the trust nor its funds were expressed to be for the benefit of any particular religious community and as further pointed out by learned counsel for the assessee and remained uncontroverted by the learned Departmental representative, not even a single rupee was spent by the assessee-trust on religious activity."

11. In accordance with the above case laws, it is clearly proved that activities of the assessee are in no way religious as these are not for the benefit of a particular community, cast or religion and the assessee is carrying out charitable activities only.

12. Sir, considering the above facts, explanation and documentary evidence, application filed in Form 10AB, under clause (iii) of first proviso to sub-section (5) of Section 80G should not be rejected.

Sir, with well-known saying of Dr. Martin Luther King Jr. "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly we conclude our submission with the hope that the assessee will get justice from yourself."

9. Despite the assessee making such clear cut submission to the effect that the objects referred to by the Id. CIT (Exemption) was not religious in nature and the assessee supporting his averments in this regard with judicial decisions as noted above, the Id. CIT (Exemption)

went and noted to the contrary that the assessee had admitted to its activities being religious in nature. **It is to be noted that the Ld.CIT (Exemption) did not controvert the contentions of the assessee.** The Id. CIT (Exemption) referred to assessee's reply dated 09.12.2023 submitting that the assessee would be undertaking activities related to Hospital, Gurukul, Gaushala, Ashwashala, Dharamashala, Bhojanshala, Upashray – (a place for monks to rest, stay, mediate and worship in Jainism), and other social activities, as also the object of developing townships based on the principles and tenets of Aryan Sanskruti/Ancient Indian Shastras and Scriptures; as admission of carrying out religious activities. The Id. CIT (Exemption) also noted that many of the trustees/directors belong to the Jain religion. His findings in this regard at paragraph No. 7 of his order are as under:-

“7. Under similar ongoing proceedings u/s. 12AB of the Act, the applicant in its reply dated 09/12/2023 has submitted that "In future, the applicant will be undertaking the activities related to Hospital, Gurukul, Gaushala, Ashwashala, Dharmashala, Bhojanshala, Upashray (a place for monks to rest, stay, meditate and worship in jainism) and other social activities. Further the applicant has mentioned in its object that the applicant may develop townships based on the principles and tenets of Aryan Sanskruti, like, well governed life, candour, courtesy, nobility, straight dealing, courage, gentleness, purity, humanity, compassion, protection of the weak, liberality, observance of social duty, eagerness of knowledge, respect for the wise and the learned etc, as defined in Ancient Indian Shastras and scriptures. Therefore, the applicant itself accepted to do above mentioned activities in future which is/are religious in nature. Further, on perusal of MOA of the applicant, it is observed that the majority of trustees/directors of the institution are belongs to Jain religion.”

The Id. CIT (Exemption) accordingly, noting the assessee's alleged acceptance of the facts of carrying out religious activities, denied grant of approval u/s 80G(5) to the assessee-trust.

10. It is clear, beyond doubt, that the impugned order has been passed by the Id. CIT (Exemption) without application of any mind. As noted above, despite the assessee pointing out that the objects of assessee-trust had nothing to do with any religion, but was for promoting a way of living in accordance with ancient Indian shastras & Scriptures, the Id. CIT (Exemption) neither controverted the assessee's contention in any way, nor did he distinguish the case laws relied upon by the assessee before it to prove its point. On the contrary, he persisted with his own understanding of terms used in the objects of the trust as representing to be for the benefit of a particular religion. He referred to the words "**Ancient Indian Shastras and Scriptures**" & '**Upashray (a place for monks to rest, stay, mediate and worship in Jainism)**' as reference to a particular religion and this despite the fact that the assessee had clarified that 'Ancient Indian Shastras and Scriptures' have no reference or allegiance or origin to any religion.

11. Even otherwise there is no clarity in the order of the Ld.CIT(E) as to which specific religion he found the objects to be serving. The Id. CIT (Exemption)'s reference to the word 'ancient Indian Shastras and Scriptures', we fail to understand, are in reference to which religion. His reference to the word 'upashray', which is a place for monks in the Jainism to rest, stay, mediate and worship, presumably is referring to the Jain religion. His observations that majority of the trustees/directors of the institution also belong to Jain religion is also an indication in that direction. But we are not in agreement with the same.

12. There cannot be a more absurd reasoning for finding a trust to have religious connotations because majority of the trustees belong a particular religion. The religious character of a trust surely is to be derived from its objects and not from the religion followed by its trustees.

13. As for the reference to setting up Upashrayas, which is a place of resting for Jain Monks, that, we hold, does not make the character of the trust religious. The Hon'ble apex court in the case of CIT vs Dawoodi Bohra Jamat (SC) 364 ITR 31 interpreted the phrase religious purpose , in relation to trusts, to mean purposes relating to religion, devoted to religion, exhibiting spiritual or practical effects of religion, following the requirements of religion; pious, godly, devout. Religious purposes it held indicated those which included the advancement, support or propagation of religion and tenets. It held that religious purpose would be one relating to a particular religion and broadly would encompass objects relating to observance of rituals and ceremonies, propagation of tenets of the religion and other allied activities of the religious community. The relevant para 35 of the Hon'ble Apex Court's order is as under:

"35. Unlike the phrase "charitable purpose", "religious purpose" is not defined under the Act. According to lexicographers, the term religious would mean "of or relating to religion." (Merriam Webster Dictionary, Macmillan English Dictionary). The Shorter Oxford English Dictionary defines the term as follows:

"Devoted to religion; exhibiting the spiritual or practical effects of religion, following the requirements of religion; pious, godly, devout."

In Kanga, Palkhivala and Vyas, Law and Practice of Income Tax, Vol. 1, Ed. 9th (at p. 544) religious purposes are indicated to

include the advancement, support or propagation of a religion and tenets. Thus, a religious purpose would be one relating to a particular religion and broadly would encompass objects relating to observance of rituals and ceremonies, propagation of tenets of the religion and other allied activities of the religious community. An example of such would entail activities such as the dance performances (Garba) or distribution of food specifically for people on fast during the Hindu festivities of Navratri.”

14. The setting up of Upashrays has nothing to do with the propagation of any tenets of any religion or observance of any rituals of religion. Therefore even this object cannot be said to be religious in character.

Besides setting up of Upashrays is one amongst many other charitable activities stated to be carried out by the assessee. Therefore picking up one alone would not lend a religious flavour to the objects of the assessee.

15. As for the object of promoting a way of living espoused in ancient Indian Shastras, that also can by no stretch of logic be said to be an object having religious color or connotations. As rightly pointed out by the Id. Counsel for the assessee, the Tribunal in various decisions has rightly held ‘shastras and scriptures’ to define only way of life of civilized society and they are definitely not religion specific. These objects address and are for the benefit of public at large to instill good values of living and do not promote any religious activity to be carried out.

16. In view of the same, we are in complete agreement with the Id. Counsel for the assessee that the denial of grant of approval u/s 80G(5) of the Act in the present case, finding one of the objects of the

assessee-trust as religious in nature, is grossly incorrect. The object clause referred to by the Id. CIT (Exemption) for doing so, we find, is not religious in nature and, therefore, we hold the denial of grant of approval by the Id. CIT (Exemption) to be not sustainable in law. We accordingly direct the Id. CIT (Exemption) to grant the assessee-trust the approval u/s 80G(5) of the Act.

17. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 25/10/2024 at Ahmedabad.

Sd/-

**(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

Ahmedabad; Dated 25/10/2024

**btk

Sd/-

**(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

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

1. ँ पीलर्धी / The Appellant
2. प्रत्यर्धी / The Respondent.
3. संबंघित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-
5. विभर्गीय प्रतिनिधि, ँ धिकरण ँ पीलीय आयकर , /DR,ITAT, Ahmedabad,
6. गार्ड फर्ईल /Guard file.

TRUE COPY

आदेशानुसर / BY ORDER,

सहप्रक पंजीकर (Asstt. Registrar)
आयकर ँ पीलीय ँ धिकरण
ITAT, Ahmedabad