

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI NARENDRA P. SINHA, ACCOUNTANT MEMBER**

I.T.A. No.1503/Ahd/2024
(Assessment Year: N.A.)

Shree Bhandari Gnyati Mandal, C/o. Bhandari Madhaubhai Govandbhai Hall Nani Parsiwad, Gujarat-396001	Vs	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No. AAETS3729C]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Rasesh Shah, AR
Respondent by:	Shri A P Singh, CIT DR
Date of Hearing	23.12.2024
Date of Pronouncement	24.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad vide order dated 26.06.2024.

2. The assessee has raised the following grounds of appeal:

“1. On the facts and in circumstances of the case as well as law on the subject, the learned CIT(E) has erred in rejecting the application of assessee for approval u/s. 80G(5)(iii) of the I.T. Act, 1961.

2. It is therefore prayed that order of CIT(E) passed u/s. 80G(5)(iii) of the I.T. Act, 1961 may please be cancelled and registration may be granted.

3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”

3. The brief facts of the case are that the assessee’s application for grant of registration under Section 80G of the Act was rejected by Ld. CIT(E) on the ground that a perusal of the objects of the trust demonstrate that Object No. 3 of the applicant was partly “religious”

in nature. Therefore, since Object No. 3 of the applicant trust is composite in nature i.e. both charitable and religious in nature, it clearly contravened Section 80G(5) of the Act which requires that the trust is not established only for charitable purposes, which is a pre-requisite for grant of registration under Section 80G(5) of the Act.

4. Before us, the Counsel for the assessee submitted that the assessee / applicant trust had submitted before Ld. CIT(E) that it has not spent any money towards religious purposes, it does not manage any religious establishment and has also not received any income for religious purposes. It was submitted before Ld. CIT(E) that the trust has been formed for the members of the “Bhandari Community”, which is a notified backward community, which is duly covered within the provision of Explanation 1 of Section 80G of the Act. However, Ld. CIT(E) has not dealt with any of the submissions of the assessee / applicant trust and rejected the application of the trust.

5. On going through the records of the case, we observe that the word “religious” is only coming at one place in the objects of the assessee / applicant trust i.e. at Object No. 3, which is reproduced for ready reference:

*“3) To provide social, cultural, moral, professional, **religious** as well as Vedic support to caste members.”*

6. Now on going through Section 80G(5) of the Act, it states that this section applies to donation to any institution or fund only if it is established in India for a “charitable purposes”. Further, Explanation 3 to Section 80G states that the term “charitable purpose” does not include any **purpose the whole or substantially the whole of which**

is of a religious nature. Further, Section 80G(5B) states that notwithstanding Explanation 3, any institution or fund which incurs expenditure which is of a religious nature **for an amount not exceeding 5% of it's total income for that previous year** shall be deemed to be an institution or fund to which the provisions of Section 80G shall apply. Now, from a combined reading of these provisions it is apparent that in case any trust applies or expends less than 5% of his income towards religious purposes, then it cannot be denied benefit of deduction under Section 80G of the Act on the ground that has been incorporated for religious purposes. Further, even in the definition of the term “charitable purposes” it has been stated that the purpose of Trust should not one which is wholly or substantially wholly which of a religious nature. Therefore, even as per Explanation 3 referred to above, in order to qualify as “charitable purpose” within the meaning of section 80G of the Act, the only qualification is that the activities should not be wholly or substantially wholly religious. Therefore, in view of the statutory provisions quoted above, we are of the considered view that the application for grant of deduction under Section 80G cannot be denied to the assessee only on the ground that one of the objects content the term “religious”. Further, we observe that the applicant / assessee trust had specifically submitted that the trust has not incurred any expenditure towards religious purposes. However, Ld. CIT(E), without carrying out any enquiry into this aspect, summarily rejected the application filed by the assessee / applicant trust. In fact, Ld. CIT(E), while rejecting the application for grant of registration under Section 80G of the Act has not dealt with any of the submissions / contentions of the assessee / applicant trust

submitted during the course of hearing, which in our view is against the principles of natural justice.

7. In the result, the matter is restored to the file of Ld. CIT(E) to consider the grant of registration under Section 80G of the Act afresh and to carry out necessary verification whether the assessee / applicant trust has expended / utilized less than 5% of it's total income towards religious purposes. If that be the case, the assessee / applicant trust may be granted registration, in accordance with law.

8. In the result, appeal of the assessee / applicant trust is allowed for statistical purposes.

This Order pronounced in Open Court on	24 /12/2024
---	--------------------

Sd/-
(NARENDRA P. SINHA)
ACCOUNTANT MEMBER

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

(True Copy)

Ahmedabad; Dated 24/12/2024

TANMAY, Sr. PS

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

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad