

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.1265/SRT/2024
(Physical Hearing)

Shri Navsari Modh Vanik Panch, Haveli Street, Navsari - 396445 [PAN : AABTS3590A]	बनाम Vs	The CIT(Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Darshit J. Naik, CA
राजस्व की ओर से /Revenue by	Shri Ravi Kant Gupta, CIT-DR
सुनवाई की तारीख/Date of hearing	13.02.2025
उद्घोषणा की तारीख/Date of pronouncement	17.02.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of learned Commissioner of Income-tax (Exemptions), Ahmedabad [for short to as "ld. CIT(E)] dated 25.11.2024 in rejecting approval of fund under section 80G(5) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). Though, the assessee has raised multiple grounds of appeal, however substantial ground of appeal relates to not allowing approval under section 80G(5) to assessee-trust by treating it as religious in nature.
2. Rival submission of both the parties heard and record perused. The Ld. Authorized Representative (ld.AR) of the assessee submits that assessee is a "trust" created in the year 1953 and in engaged in the services of poverty alleviation, providing medically, educational aid, upliftment of poor without any discrimination on the basis of cast, creed or religion. The assessee-trust

is registered with Charity Commissioner. The assessee is having valid registration under section 12A/12AB of the Act. The assessee was allowed provisional registration, which is valid from 16.12.2022 to AY.2025-26. In view of new provisions inserted by Finance Act, 2020, the assessee-trust filed fresh application for regular approval under section 80G(5). The Id. CIT(E) rejected the application of assessee by taking view that assessee is not a purely charitable trust and is not entitled to get approval under section 80G(5).

3. The Ld. AR of the assessee submits that object and activities were duly verified and accepted while allowing registration under section 12A/12AB of the Act. While considering the application for approval, the Ld.CIT(E) is to require if the condition prescribed under Rule 11AA(2)(g) are fulfilled or not. As per clauses (g) of sub-rule (2) of 11AA, the Ld.CIT(E) cannot go beyond the accounts of three preceding years. The Id. CIT(E) while rejecting the application referred the statement of expenditure incurred for religious activities for AYs.2019-20 to 2021-22. Further, clause (iv) of objects was referred. The Id. AR submits that English Translation of clause (iv) of the objects is placed on record at page no.10 of the paper book. As per clause (iv), the object of assessee-trust is to carry out activities for caste, social upliftment without any discrimination of caste or religion and to carry out support economic, ethical, religious, educational, medical and cultural programme, to build guest houses, satsang halls, marriage halls, oldage homes and its related equipment and to maintain them. To contribute as much as possible for administration of Shree Gokulchandamaji Temple. Object as whole is to be considered and not in isolation of a particular word. Admittedly,

the Id. CIT(E) has not examined the expenditure incurred for religious activities in last three financial years as per mandate of clauses (g) of sub-rule (2) of 11AA. The Id. AR of the assessee submits that he is ready to furnish account of all three preceding years wherein there is no such violation. The assessee has not spent any amount for religious purpose in last three financial years. Thus, the order passed by Ld.CIT(E) is not in consonance with prescribed under Rule-11AA. The Ld. AR of the assessee submits that assessee is an old trust and having provisional registration upto assessment year 2025-26, therefore appeal maybe accepted or in alternative may be restored back to the file of Id. CIT(E) for his verification of account three preceding years and to allow approval under section 80G(5) of the Act.

4. On the other hand, Ld. Commissioner of Income-tax Departmental Representative (Ld.CIT-DR) for the Revenue submits that Id. CIT(E) has passed a very categorical, he supports the same.
5. We have considered the rival submissions of both the parties and have gone through order of lower authorities carefully. We find that there is no dispute that the assessee is having registration under section 12A/AB of the Act. For allowing approval of the fund, registration of assessee-trust under section 12A/AB is the primary condition. We find that while considering the application for approval, the Ld.CIT(E) has to satisfy himself if the condition prescribed under Rule 11AA(2)(g) are fulfilled or not. As per clauses (g) of sub-rule (2) of 11AA, the Ld.CIT(E) has to examines if there is any violation or the assessee has spent any amount for religious purpose in last three financial years. There is no such finding of Id CIT(E) about such violation of Rule 11AA(2)(g). There

is no dispute that assessee-trust is an old trust and having provisional approval upto assessment year 2024-25. The assessee is already allowed registration under section 12A/AB. Thus, in our view the scope of inquiry of trust by the Id CIT(E) for the approval of the institution is to be confined only to the finding out whether prescribed conditions are fulfilled. In our view such conditions are primarily fulfilled by the assessee. If the Id CIT(E) intends to travel beyond three years expenditure as prescribed in Rule 11AA(g) he should have issued specific show cause notice to the assessee, which admittedly, is not issued. Considering the aforesaid discussions, restore the matter back to the file of the Id CIT(E) to examine account of three preceding years and in case there is no expenses exceeding 5% on religious activities allow approval under section 80G(5) to the assessee, if the assessee fulfilled all other conditions.

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

Order pronounced in the open court on 17/02/2025.

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/Accountant Member

Sd/-
(PAWAN SINGH)
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 17/02/2025

SAMANTA

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

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By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत