

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

**ITA No.1193/SRT/2024**

(Hybrid Hearing)

Shree Kedareshwar & Shree Gyaneshwar Mahadev, At & Post: Khali, Tal: Bardoli, Dist: Surat – 394620 (Gujarat) [ <b>PAN No. AABTS8025N</b> ]	Vs	The CIT(Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

**ITA Nos.1194 & 1195/SRT/2024**

Shreemati Deviben Karshanbhai Patel Charitable Trust, Bajipura, SO Butwarda, Surat – 394690 (Gujarat) [ <b>PAN No. ABATS9506N</b> ]	Vs	The (Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

**ITA Nos.1196 & 1197/SRT/2024**

Mahuva Pradesh Khand Udyog Charitable Trust, Factory Site, Bamaniya, Mahuva, Surat – 394246 (Gujarat) [ <b>PAN No. AABTM2448R</b> ]	Vs	The CIT (Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

**ITA Nos.1198 & 1199/SRT/2024**

Heritage Trust, C/o Inst. of Engineer South Gujarat Local Chapter, Mahida Bhavan, Ichhanath, Surat – 395001 (Gujarat) [ <b>PAN No. AAATH1391P</b> ]	Vs	The CIT (Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

**ITA Nos.1200 & 1201/SRT/2024**

Shree Bharthana Vesu Bharteshwar Mahadev Sarvajanic Vikas & Sanskrutik Trust, Bharthana (Vesu), Tal: Choryasi, Surat – 395017 (Gujarat) [ <b>PAN No. AACTS7738K</b> ]	Vs	The CIT (Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

**ITA Nos.1202 & 1203/SRT/2024**

Bhikhben and Dr Dayarambhai Nathubhai Patel Charitable Trust, Bajipura, Surat – 394690 (Gujarat) [PAN No. AAATB6996Q]	Vs	The CIT (Exemption), Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Akshay M. Modi, CA
राजस्व की ओर से /Revenue by	Shri Ravi Kant Gupta, CIT-DR
अपील पंजीकरण/Appeals instituted on	13/11/2024
सुनवाई की तारीख/Date of hearing	12/02/2025
उद्घोषणा की तारीख/Date of pronouncement	13/02/2025

**Order under section 254(1) of Income Tax Act**

**PER BENCH:**

1. This group of eleven appeals by different assessee(s) are directed against the separate orders of Ld. Commissioner of Income-Tax (Exemption), Ahmedabad [for short, "Ld. CIT(E)"] dated 20/09/2024 and 08/10/2024 in rejecting applications under section 12AB and/ or 80G(5) of Income Tax Act, 1961 (in short, 'the Act'). Certain fact in all the appeals are common, the respective appellant has raised certain common grounds of appeal, thus, with the consent of parties, all these appeals were clubbed, heard together and are decided by common order to avoid the conflicting decision. For appreciation of facts, the facts in case of Shreemati Deviben Karshanbhai Patel Charitable Trust, in ITA Nos. 1194 & 1195/Srt/2024 is treated as lead case. The assessee while challenging the rejection of application of registration under section 12A/12AB has raised following grounds of appeal:

*"(1) On the facts and in circumstances of the case as well as law on the subject, the CIT(Exemption) erred in assuming jurisdiction u/s 12AB(1)(b)(ii)(B) of the I. T. Act, 1961 to pass the order in Form 10AD (being the Order appealed against) rejecting the application in Form 10AB filed to grant the fresh*

*permanent registration u/s 12AB of the Act for the renewal of the valid permanent registration granted in Form 10AC on 30.05.2021 for and from the Asst. Year: 2022-23 to 2026-27 purely on mis-conceptual inferences and misreading of the provisions of the law treating the **application rejected as non-maintainable** and hence, the CIT(E)'s action passing the order in Form 10AD being without jurisdiction, bad in law, perverse, prejudicial, arbitrary, unwarranted of facts and material on records, illegal and invalid, is liable to be quashed or annulled in toto.*

- (2) On the facts and in circumstances of the case as well as law on the subject, the learned CIT(Exemptions) has grievously failed to issue SCN to grant a reasonable opportunity of being heard before rejecting the application for renewal of existing permanent registration of the appellant-trust and therefore, the order passed u/s 12AB(1)(b)(ii)(B) of the Act, being in excess of the jurisdiction with the CIT(E) and patently in violation of the rule of audi alteram partem and ex-facie in violation of the relevant provisions under the law, irrational, unfair, and prejudicial, is liable to stuck down.*
- (3) Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

2. While challenging the rejection of approval under section 80G(5), the assessee has raised following grounds of appeal.

- 1. On the facts and in circumstances of the case as well as law on the subject, the CIT(Exemption) erred in assuming jurisdiction under Third Proviso Clause (b) sub-clause (B)(II) below section 80G(5) of the I.T. Act, 1961 to pass order in Form 10AD (being the Order appealed against) rejecting the application for renewal of the existing approval granted under section 80G(5) of the Act granted in Form 10AC on 10.03.2022 for and from the Asst. Year: 2022-23 to 2024-25 purely on mis-conceptual inferences and misreading of the provisions of the law treating the **application rejected as non-maintainable** and hence, the CIT(E)'s action passing the order in Form 10AD being without jurisdiction, bad in law, perverse, prejudicial, arbitrary, unwarranted of facts and material on records, illegal and invalid, is liable to be quashed or annulled in toto.*
- 2. On the facts and in circumstances of the case as well as law on the subject, the learned CIT(Exemptions) has grievously failed to issue SCN to grant a*

*reasonable opportunity of being heard before rejecting the application for renewal of existing approval u/s 80G(5) of the Act granted to appellant trust and therefore, the order passed under Third proviso clause (b) of sub-clause (B)(II) below section 80G(5) of the Act, being in excess of the jurisdiction with the CIT(E) and patently in violation of the rule of audi alteram partem and ex-facie in violation of the relevant provisions under the law, irrational, unfair, and prejudicial, is liable to stuck down.*

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

4. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id.AR) of the assessee submits that assessee-trust was set up on 30.11.2015 duly registered with Charity Commissioner, Surat under Bombay Public Trust Act. The assessee was allowed registration under Section 12A(a) of the Act. On introduction of new mechanism for registration of trust by Finance Act, 2021, the assessee was allowed provisional registration under section 12A(1)(ac)(i) on 10.03.2022, which is valid from AY.2022-23 to 2026-27. Similarly, the assessee was allowed provisional approval under section 80G(5), which was allowed from 2022-23 to 2024-25. The assessee applied for regular/ permanent registration under section 12AB on 10.06.2024. Similarly, the assessee applied for renewal of provisional approval under section 80G(5) on 28.03.2024. Both the applications of the assessee were rejected by Id. CIT(E) on the ground that such application filed in prescribed form are not maintainable being premature and that the appellant-trust has already been granted provisional registration valid till AY.2026-2027. The Id. AR of assessee submits that application for permanent registration under section 12A/12AB or for approval of fund under section 80G(5) can be made at least six months prior to expiry of period of provisional registration of trust or approval

of fund. There is no bar in moving the application either for registration of trusts under section 12A/12AB or for approval of fund under section 80G(5) prior to such expiry of provisional arrangements of registration or approval of fund. Thus, the order passed by Id. CIT(E) and rejecting the application as not maintainable, without going into merit. To support such contention, the Id. AR of the assessee relied on the following decisions:

- Susamskar Foundation vs. CIT(E), (2024) 160 taxmann.com 552 (Kolkata – Trib)
- Mallarpur Naisuva vs. CIT(E), (2024) 162 taxmann.com 120 (Kolkata – Trib.)
- Rajbalhat Cultural Circle vs. CIT(E), (2024) 162 taxmann.com 769 (Kolkata – Trib.)
- Avileen Education Foundation vs. CIT(E), (2025) 170 taxmann.com 334 (Pune – Trib.)

5. On the other hand, the learned Commissioner of Income Tax-Departmental Representative (Id. CIT-DR) for the revenue supported the order of Id CIT(E). The Id. CIT-DR for the revenue submits that assessee was require to apply for regular approval of fund or for registration of trust, strictly in accordance, the procedure prescribed in this statute and the rules framed thereunder, otherwise it will become chaotic position for consideration of such application. However, on our specific question about restoring the matter back to the file of Id. CIT(E) for reconsideration of matter/appeals, he submits that the Bench may take appropriate view in accordance with law, but however it may be made clear to the assessee that the assessee will not dispute the time limit for passing the order on such application.
6. We have considered the submissions of both the parties and have gone through the order of Id. CIT(E) carefully in each of the cases. We find that in all cases, the respective application of assessee-trust either for regular registration under Section 12A/12AB or approval of fund under section 80G(5)(iii) of the Act. We

find that respective applications of assessee-trust were rejected by Id. CIT(E) by taking view that assessee has already holding valid registration or approval and that such application is not maintainable. We find that Co-ordinate Bench of Tribunal in Susamskar Foundation vs. CIT(E) (supra) on identical facts, held that assessee-trust had been granted provisional registration which was valid till assessment year 2026-27 and assessee and applied for final registration before expiry of said period but Commissioner rejected same on ground that application of assessee was premature, since there was no bar to move an application before period of six months from expiry of provisional registration, matter was to be remanded back for consideration of application on merits. Further, Pune Bench of Tribunal in Avileen Education Foundation vs. CIT(E) (supra) also held that where issue of grant of registration under section 12A(1)(ac)(iii) has already been remanded back for *de novo* adjudication, it would be appropriate to remit issue of grant of approval under section 80G(5) as well, being consequential, for *de novo* adjudication. Thus, respectfully following the decision of Co-ordinate Bench of Tribunal, the application of assessee for registration of approval registration under section 12A/12AB is restored back for the *de novo* consideration and to pass order in accordance with law. Needless to direct that before deciding the application afresh, the Id. CIT(E) shall grant reasonable and fair opportunity of hearing to the assessee and further to allow to make further submission to prove the objects of assessee-trust and its activities. The assessee is also directed to file/furnish any other necessary information, if so desired. In the result, grounds of appeal raised by the assessee in ITA No.1194 & 1195/SRT/2024 are allowed for statistical purposes.

7. In the result, both the appeals of assessee are allowed for statistical purposes.

**ITA Nos.1193/SRT/2024, 1196 to 1197/SRT/2024, 1198 to 1199/SRT/2024, 1200 to 1201/SRT/2024, 1202 to 1203/SRT/2024:**

8. In all these appeals, the respective assessee(s) have raised similar grounds of appeal, as raised in ITA No.1196/SRT/2024 or in IT No.1197/SRT/2024, which we have restored back to the file of Id. CIT(E) for considering afresh. Therefore, following the principle of consistency of all these appeals are also restored back to the file of Id. CIT(E) with similar directions. In the result, grounds of appeal raised by the assessee(s) in respective appeals are allowed for statistical purposes.

9. In the result, all these appeals of the assessee are allowed for statistical purposes.

Order pronounced on 13/02/2025 in open court.

**Sd/-  
(BIJAYANANDA PRUSETH)  
ACCOUNTANT MEMBER**

**Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER**

सूरत / Surat Dated: 13/02/2025

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