

आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
BIJAYANANDA PRUETH, ACCOUNTANT MEMBER
आ.अ.सं./ITA No.1359-1360/SRT/2024

Shri Charotaaria Leova Patidar Seva Samaj, Gangadhara, Taluka: Palsana, Surat-394 310 [PAN No: AABTS 2919 M]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1361-1362/SRT/2024

Shree Dandivalla Hanumanji Mandir Trust Opp. Krishna Petrol Pump, Khatodara, Udhna Road, Surat-395 002 [PAN No: AABTS 8826 M]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1374-1375/SRT/2024

Surat Performing Artists Association, 1/3472, Skyline, B/h Hindu Milan Mandir, Annie Besant Road, Gopipura, Surat-395 001 [PAN No: AAVTS 5912 J]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1376-1377/SRT/2024

Satya Sodhak Sabha 3, Abhinav Park, Ghod Dod Road, Surat-395 007 [PAN No: AABTS 3211 J]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1182 to 1183/SRT/2024
(physical court hearing)

Olpad Taluka Azaddin Smarak C/o Mahadev Shastri Vidyalaya AT & P.O. Karanj Road, Olpad, Surat-394 540	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
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[PAN No: AAATO 0302 R]		
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1184-1185/SRT/2024

The Peoples Education Society Bundelawad, Surat-395 003 [PAN No: AAATT 3115 H]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1186-1187/SRT/2024

Santoshi Mata Charitable Trust, Vansva Chorasi, AT & P.O. Vasva, Surat-394 510 [PAN No: AASTS 6206 Q]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1188-1189/SRT/2024

Satyam Shivam Sundaram Charitable Trust AT & P.O. Isroli, Taluka: Bardoli, Surat-394 602 [PAN No: AALTS 3437 Q]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

आ.अ.सं./ITA No.1190-1191/SRT/2024

Shree Surat Jilla Leuva Patidar Samaj, Sanskrutik Sanskarvidhi Party Plot, Opp. Agasimata Mandir, Surat-Dhulia Road, Bardoli, Surat-394 601 [PAN No: AABTS 2888 P]	बनाम Vs	Commissioner of Income-tax (Exemption) Ahmedabad
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Mitish S Modi & Akshay M. Modi, CAs
राजस्व की ओर से /Revenue by	Shri Ravi Kant Gupta, CIT-DR
सुनवाई की तारीख/Date of hearing	20/02/2025
उद्घोषणा की तारीख/Date of pronouncement	20/02/2025

Order under section 254(1) of Income Tax Act

PER BENCH:

1. This group of eighteen 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)"] 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 Shree Chorataria Leova Patidar Seva Samaj, in ITA Nos. 1359 & 1360/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 08.02.2022 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 08.02.2022 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. At the outset of hearing the learned Authorised Representative (Id.AR) of the assessee submits that the grounds of appeal raised by the different assessees are squarely covered by the decisions of this Tribunal in ITAs No.1193 to 1203/Srt/2024 dated 13.02.2025. In all these present appeals the respective

assessee-trust have raised exactly same grounds of appeal as raised in ITAs No.1193 to 1203/Srt/2024. The Id AR of the assessee submits that all those appeals were restored back to the file of Id CIT(E) for *de novo* consideration and to pass order in accordance with law. The Id AR of the assessee made a prayer that specific directions may be given to the Id CIT(E) to allow registration under section 12A/12AB or approval of funds from the date of application as the case may be.

5. On the other hand, the Id CIT-DR for the revenue supported the orders 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.
6. We have considered the rival submissions of the parties and have gone through the order of Id CIT(E) and the grounds of appeal raised in the present appeal. On careful perusal of the impugned order and the grounds of appeal raised by the assessee, we find that the assessee in its both the appeal has raised similar grounds of appeal, the appellant in ITA No. 1194 & 1195/Srt/2024, which we have decided in order dated 13.02.2025. Thus, we find merit in the submissions of the Id AR of the assessee that the grounds of appeal in his appeal is squarely covered by the decision of this Tribunal dated 13.02.2025, passed in ITAs No.1193 to 1203/Srt/2024, wherein we have passed the following order;

"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.

7. Considering the consistent decision of this combination of this bench and following the principles of consistency, both the appeal in ITA No. 1359 & 1360/Srt/2024 is

allowed for statistical purpose. The Id CIT(E) is also directed to consider the plea of Id AR of the assessee for allowing registration under section 12A/12AB or approval of funds under section 80G(5) from the date of respective application and to pass order in accordance with law. In the result, the appeal in ITA No. 1359 & 1360/Srt/2024 is allowed for statistical purpose.

ITA Nos.1359-1360/SRT/2024, 1361-1362/Srt/2024, 1374 to 1378/Srt/2024 and 1182 to 1192/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 20/02/2025 in open court.

Sd/-
(BIJAYANANDA PRUETH)
ACCOUNTANT MEMBER

सूरत / Surat Dated: 20/02/2025

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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Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत