

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. **912/SRT/2024** (AY 2024-25)

(Hybrid hearing)

Saurashtra Kadva Patidar Seva Samaj, B/S A.S. Motors, Opp. Sandesh Press, A.K. Road, Surat-395 008 [PAN : AAFTS 9782 A]	बनाम Vs	Commissioner of Income-tax, (Exemption), Ahmedabad-380 015
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Sapnesh R Sheth, CA
राजस्व की ओर से /Revenue by	Shri Ravinder Sindhu- CIT-DR
सुनवाई की तारीख/Date of hearing	30.01.2025
उद्घोषणा की तारीख/Date of pronouncement	03.03.2025

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 Ld. Commissioner of Income-tax(Exemptions)-Ahmedabad [for short to as "Ld.CIT(E)] dated 27.06.2024 in rejecting approval of fund under section 80G(5) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. Rival submission of both the parties have been heard and record perused. The Ld. Authorized Representative (Ld. AR) of the assessee submits that assessee-trust while filing application for approval of fund under section 80G(5) of the Act, provided all necessary information. The Ld.CIT(E) was issued show cause notice dated 26.04.2024, which was responded vide reply dated 10.05.2024. With the reply, the assessee furnished required details. On receipt of such reply a fresh show cause was issued to the assessee vide notice dated 14.06.2024,

relevant part of show cause notice is extracted in para-7.2 of impugned order. In the show cause notice, the Ld.CIT(E) noted that one of the object of assessee-trust relates to construct and maintain a temple. The assessee could not reply such notice, the Ld.CIT(E) on the basis of one of the object took his view that object of assessee is partly religious. The Ld. AR of the assessee submits that assessee has not incurred any expenses on such religious activities. Overall object has to be considered while considering the application for approval fund, particularly in accordance with Rule 11AA of Income Tax Rules. The Ld. AR of the assessee submits that assessee has a good case on merit and is likely to succeed if one more opportunity is allowed to explain facts before Ld.CIT(E).

3. On the other hand, Ld. Commissioner of Income-tax-Departmental Representative (Ld.CIT-DR) for the Revenue supported the order of Ld.CIT(E)
4. We have considered the rival contention of both the parties and have gone through order of Ld.CIT(E) carefully. We find that application of assessee for approval of fund was rejected by Ld.CIT(E) by noting that one of the object of assessee-trust is religious in nature. We find that Ld.CIT(E) has not examined annual account of preceding three years as per clause-(g) of sub-rule-2 of Rule11AA of the Income tax Rules, 1962. The said sub-clause-(g) of Rule-11AA to specify that where applicant/trust has been in existence during any year or prior to financial year in which the application for registration is made, the assessee is require to file self-certified copy of annual account of trust prior year or years not more than three years for which, account has been made. In our view, such rules are framed to give a clear picture of the expenditure of the

assessee-trust, if any, expenditure is incurred for the object of the trust or if any expenses within the prescribed limit of not more than @ 5% on religious activities is incurred or not. We also find that Ld. AR of the assessee fairly accepted that assessee-trust could not file reply to the show cause notice issued on 14.06.2024 by Ld. CIT(E). Therefore, in the interest of justice, we deem it appropriate to restore the matter back to the file of Ld.CIT(E) to reconsider the application afresh and pass order in accordance with law. Needless to direct that before passing order afresh, the Ld.CIT(E) shall provide reasonable opportunity to the assessee. The assessee is also directed to be more vigilant and to make timely compliance of the notice issued by Ld.CIT(E). With these directions, the grounds of appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 03/03/2025.

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

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

सूरत / Surat Dated: 03/03/2025

Dkp Outsourcing Sr.P.S*

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

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

By order

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत