

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.144/Ahd/2025
निर्धारण वर्ष /Assessment Year : NA

Secret Charitable Trust 213, Moonlight Complex Nr. Punjab Honda Show Room Drive-in-Road Gurukul Ahmedabad - 380 052	<u>बनाम/</u> <u>v/s.</u>	The CIT (Exemption) Ahmedabad - 380 015
स्थायी लेखा सं./PAN: ABGTS 8863 E		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
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Assessee by :	Shri S.N. Divatia & Shri Samir Vora, ARs
Revenue by :	Shri R.N. Dsouza, CIT-DR

सुनवाई की तारीख/Date of Hearing : 19 /03/2025
घोषणा की तारीख /Date of Pronouncement: 20 /03/2025

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

This appeal has been filed by the assessee against the order passed by the Commissioner of Income Tax (Exemption), Ahmedabad [hereinafter referred to as "CIT(E)"] dated 30.12.2024 rejecting the application for approval under section 80G(5)(iii) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] and cancelling the provisional approval granted earlier.

2. The assessee is a public charitable trust registered under the Gujarat Public Trust Act, 1950 vide registration No. F/22158/Ahmedabad dated 11.05.2023. The assessee was granted registration under section 12AA of the Act on 18.09.2023 and was also granted provisional approval under section 80G(5)(iii) of the Act with effect from 18.09.2023. Subsequently, the assessee filed Form 10AB for final approval under section 80G(5)(iii) of the Act. The CIT(E) issued a notice on 14.09.2024, calling for further details, which the assessee duly responded to on 23.11.2024. Thereafter, a show cause notice ("SCN") dated 29.12.2024 at 6:26 PM was issued to the assessee, proposing that certain objects in the trust deed were religious in nature, thereby making the trust ineligible for approval under section 80G(5) of the Act. The assessee was directed to respond by 30.12.2024 at 5:00 PM, leaving it with less than 24 hours to file a reply. The CIT(E) proceeded to reject the 80G of the Act approval and cancel the provisional approval, concluding that the assessee was a composite (charitable-cum-religious) trust and thereby violated the conditions prescribed under section 80G(5)(ii) of the Act.

3. Aggrieved by the order of CIT(E), the assessee is in appeal before us with following grounds of appeal:

1.1 The order passed by U/s.80G(5) on 30.12.2024 by CIT(Exem), Ahmedabad rejecting the application for approval of the appellant trust u/s 80G(5)(iii) of the Act and cancelling the provisional approval by holding that the appellant trust was a religious- cum- charitable trust which is excluded from the benefits of sec.80G(5) is wholly illegal, unlawful and against the principles of natural justice.

1.2 The Id. CIT(Exem) has erred in not considering fully and properly the explanations furnished and evidence produced by the appellant trust.

1.3 The Id. CIT(Exem) has failed to appreciate that there was sufficient cause for failure to respond to the show cause notice issued on 29.12.2024 at 6.26 p.m. and asking to respond by 30.12.2024 at 5.00 p.m. Thus, the appellant was allowed hardly

24 hrs to respond to this notice and thus, there is gross violation of the principles of natural justice.

2.1 The Id. CIT (Exem), has grievously erred in law and or on facts in not appreciating that the appellant trust was not a religious trust and even the composite trust being charitable cum religious in nature which was eligible for approval u/s 80G(5).

2.2 That the in the facts and circumstances of the Id. CIT(Exem), ought not to have held that the appellant trust was a composite trust eligible for approval u/s 80G(5).

3.1 The Id. CIT(Exem), has grievously erred in law and or on facts in rejecting the approval of the appellant trust u/s 80G(5)(iii) of the Act and cancelling the provisional approval.

3.2 That the in the facts and circumstances of the Id. CIT(Exem), ought not to have rejected the application for registration by ignoring the evidence on record with the application for registration.

It is, therefore, prayed that the rejection of the application for approval u/s 80G(5) and cancellation of the provisional approval by the CIT(Exem), may kindly be deleted.

4. The Authorized Representative ("AR") of the assessee contended that the order passed by the CIT(E) is against the principles of natural justice, as the assessee was not given adequate time to respond to the SCN issued on 29.12.2024. It was submitted that the 24-hour response period was grossly insufficient, particularly given the ongoing ITR and audit work of the assessee's staff. It was further submitted that the CIT(E) failed to appreciate the explanations and evidence filed by the assessee, including its reply dated 23.11.2024, wherein details of the trust's activities and financials were provided. The AR contended that even if the trust had composite objectives (charitable + religious), it was still eligible for approval under section 80G(5) of the Act. It was argued that the CIT(E) erred in holding that the assessee

was a religious trust, when in fact the predominant activities of the trust were charitable in nature. The AR, therefore, prayed for setting aside the rejection order and restoring the matter to the CIT(E) for reconsideration, with due opportunity to be granted to the assessee.

5. The Departmental Representative ("DR") did not raise any objection to restoring the matter back to the file of CIT(E) for fresh adjudication.

6. We have carefully considered the rival submissions and perused the records. The primary issue for our consideration is whether the rejection of approval under section 80G(5)(iii) of the Act and cancellation of provisional approval by the CIT(E) was justified. We find that the CIT(E) issued a show cause notice on 29.12.2024 at 6:26 PM, directing the assessee to respond by 30.12.2024 at 5:00 PM. Thus, the assessee was provided with less than 24 hours to submit its reply. In our considered view, such a short window for response is grossly inadequate and violates the principles of natural justice, as held by various judicial precedents. Where an opportunity has been granted but not effectively availed due to an unreasonably short response period, the order cannot be sustained on the grounds of fair hearing and natural justice. Failure to provide a reasonable opportunity to an assessee before passing an adverse order is a clear violation of the principles of natural justice and renders the order unsustainable.

6.1. In light of the above discussion, we are of the view that the assessee was not granted an adequate opportunity to present its case before the CIT(E). The CIT(E) was required to provide a reasonable time for the assessee to file its reply and consider the same judiciously. Further, it is observed that

the CIT(E) has not adequately examined the evidence already submitted by the assessee in response to the earlier notice dated 14.09.2024. The assessee had furnished details in its reply dated 23.11.2024, which appear to have been overlooked or not duly considered in the final order.

6.2. In light of the foregoing discussion, we set aside the order of CIT(E) dated 30.12.2024 and restore the matter back to the file of CIT(E) for fresh adjudication, with a direction to provide the assessee with a reasonable opportunity to present its case.

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

Order pronounced in the Open Court on 20th March, 2025 at Ahmedabad.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated 20/03/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, 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(E)- Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad