

**THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

(Through Hybrid Mode)

**Before Shri Sanjay Garg, Judicial Member
And Shri Bijayananda Pruseth, Accountant Member**

Sl. No	ITA No	Appellant (PAN No)	Respondent
1	1162/Srt/2024	Sardar Patel Vidya Sankul, Taspore Bujrang Goji Vyas Sarbtom, Bardoli, Surat-394350 PAN: AABTS2874D	CIT(Exemption), Ahmedabad
2	1164/Srt/2024	Sardar Vallabhbai Patel Education Society, Isroli, Afwa, Bardoli-395620, Gujarat PAN: AABTS2590L	CIT(Exemption), Ahmedabad
3	1166/Srt/2024	Surat Education Society, 10/626, Havadia Chakla, Station Road, Surat-395003 PAN: AABTS2910C	CIT(Exemption), Ahmedabad
4	1168/Srt/2024	Shambhubhai Patel Charitable Trust, 10/626, Mavadia Chakla, Ambaji Road, Surat-395003 PAN: AABTS2911D	CIT(Exemption), Ahmedabad
5	1170/Srt/2024	Bajipura Gram Vikash Trust, At & Post: Bajipura, Tal: Valod, Surat-394640 PAN: AAATB6997R	CIT(Exemption), Ahmedabad
6	1173/Srt/2024	Patidar Samaj, 28, Sardar Nagar Society, Sumul Dairy Road, Katargam, Surat-395004, PAN: AACTP6188J	CIT(Exemption), Ahmedabad
7	1175/Srt/2024	Pathradia Gram Vikas Mandal Trust, At: Pathradia,	CIT(Exemption), Ahmedabad

		Post: Sarbhon, Tal: Bardoli, Dist: Surat-394601 PAN: AACTP7176J	
8	1177/Srt/2024	Shree Palwada Kelvani Mandal, Sanskar Bhavan, Near Punam Nagar, Bhatar Road, Surat-395001 PAN: AABTS3039C	CIT(Exemption), Ahmedabad
9	1179/Srt/2024	Shree Ram Kabir Mandir Trust, Khangad Sheri Begampur, Surat-395003 PAN: AABTS3261J	CIT(Exemption), Ahmedabad
10	1181/Srt/2024	Bardoli Vibhag Gram Vikas Credit Society Charitable Trust, Satgara, Station Road, Bardoli, Surat-394601 PAN: AAAAB4304M	CIT(Exemption), Ahmedabad

Assessee by: Shri Akshay Mitish Kumar Modi, A.R.
Revenue by: Shri Ravi Kant Gupta, CIT-D.R.

Date of hearing : 26-02-2025
Date of pronouncement : 16-04-2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The captioned 10 appeals have been preferred by different assessee-trusts against the separate orders passed by the Learned Commissioner of Income Tax (Exemption), Ahmedabad [hereinafter referred to as "CIT(E)"] against rejection of their applications for final approval under clause (iii) to the first proviso to Section 80G(5) of the Income Tax Act, 1961 (here-in-after referred to as "the Act"). Since the facts and issues involved in all the captioned appeals are identical, hence the same have been heard together and are being disposed of by this common

order. ITA No. 1162/Ahd/2024 is taken as a lead case for the purpose of narration of facts.

ITA No. 1162/SRT/2024 :

2. The brief facts of the case are that the appellant/assessee trust was already approved as a charitable institution u/s 80G(5) of the Act vide order dated 23.03.2009 of ld. CIT (Exemption). An amendment was brought into the relevant provisions by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, whereby, the institution which stood already approved u/s 80G(5)(vi) of the Act on or before 01.04.2021, had to apply for fresh approval under Clause (i) to the first proviso to section 80G(5) of the Act. The assessee-trust accordingly applied for fresh approval under Clause (i) to the first proviso to section 80G(5) of the Act in the prescribed form i.e. Form No. 10A on 03.05.2021. Assessee-trust was granted approval under clause (i) of the first proviso to section 80G(5) of the Act in the prescribed Form No. 10AC vide order dated 28.05.2021 of the Ld. CIT(E) which was valid until Assessment Year 2026-27. Since in the said order/Form No. 10AC dated 28.05.2021, it was mentioned that the approval granted to the assessee-trust was provisional, hence, the assessee trust applied for final/regular approval under clause (iii) of the first proviso to section 80G(5) of the Act, which was rejected by the ld. CIT (Exemption) vide impugned order dated 08.10.2024, observing that the earlier order in Form no. 10AC was still valid till AY 2026-27 and the application of the assessee was not maintainable. Being aggrieved by the said order of the Ld. CIT(E), the appellant trust has come in appeal before us.

3. We have heard the rival contentions of the Ld. Representatives of the parties and gone through the record. Before proceeding further, it will be appropriate to reproduce here the relevant provisions of section 80G(5) of the Act as amended by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 , which read as under:

“80G(5) This section applies to donations to any institution or fund referred to in sub-clause (iv) of clause (a) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely:-

.....

[(vi) in relation to donations made after the 31st day of March, 1992, the institution or fund is for the time being [approved by the Principal Commissioner or Commissioner;]

.....

Provided that the institution or fund referred to in clause (vi) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

- (i) where the institution or fund is approved under clause (vi) (as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020), within three months from the 1st day of April, 2021;*
- (ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;*
- (iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;*
- (iv) in any other case, at least one month prior to commencement of the previous year relevant to the assessment year from which the said approval is sought:*

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

- (i) where the application is made under clause (i) of the said proviso, pass an order in writing granting it approval for a period of five years;
- (ii) where the application is made under clause (ii) or clause (iii) of the said proviso,—
- (a) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—
- (A) the genuineness of activities of such institution or fund; and
- (B) the fulfilment of all the conditions laid down in clauses (i) to (v);
- (b) after satisfying himself about the genuineness of activities under item (A), and the fulfilment of all the conditions under item (B), of sub-clause (a),—
- (A) pass an order in writing granting it approval for a period of five years; or”
-
- (iii) where the application is made under clause(iv) of the said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought.

.....

Provided also that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

- (a) clause (i) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;
- (b) clause (iii) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;
- (c) in any other case, from the assessment year immediately following the financial year in which such application is made.”

4. A perusal of the above provisions would reveal that the institutions which stood already approved u/s 80G(5)(vi) on the date of Amendment brought to section 80G of the Act by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 have to re-apply for fresh registration under Clause (i) to the First Proviso to section 80G(5) of the Act

and those institutions have to be granted approval for five years by the ld. CIT(Exemption). The prescribed date for filing application for approval under Clause (i) to the First Proviso to section 80G(5) of the Act was stipulated as three months from 1st Day of April 2021. However, the CBDT from time to time extended the date for filing of the said application under Clause (i) to the First Proviso to section 80G(5) of the Act and finally vide Circular No.6 of 2023 dated 24.05.2023, the said date was extended up to 30.09.2023. Further, the institutions which had to apply for the first time or the institutions which did not stand approved on the date of coming into force of the amended provisions as brought by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, i.e. 01.04.2021, they could apply under Clause (iv) of the First Proviso to section 80G(5) of the Act. In that case, the ld. CIT(Exemption) would grant provisional approval for three years. In those cases, wherein, the institutions have been granted provisional approval under Clause (iv) to First Proviso to sub-section(5) of section 80G of the Act, they have to apply for final approval under Clause (iii) of First Proviso to section 80G(5). Such institutions are required to apply for regular/final approval at least six months prior to expiry of the period of provisional approval or within six months of commencement of its activities, whichever is earlier.

5. At this stage, it is pertinent to mention here that though, the Ld. CIT (E) in this case had granted approval under clause (i) to the First Proviso to section 80G(5) of the Act for 5 years, which as per the relevant provisions of the Act was supposed to be the regular approval, however there were discrepancies in the prescribed Form No. 10AC issued by the CIT(E) for grant of the said approval. A perusal of the certificate granted in Form No.

10AC by the ld. CIT (Exemption) dated 28.05.2021 reveals that ld. CIT (Exemption) mentioned in the title “Order for provisional approval” and even in column nos. 7 & 9 of the said order the ld. CIT (Exemption) has expressly mentioned that it was an order of provisional approval. Further in column no.10, the conditions subject to which the “provisional approval” was being granted have been mentioned. The assessee/appellant under the circumstances was of the reasonable belief that the approval granted to the appellant was provisional. The assessee, therefore, applied to the Ld. CIT(E) for final approval under clause (iii) of 1st proviso to sub-section (5) of section 80G of the Act. However, the ld. CIT (Exemption) vide a small and cryptic order rejected the application of the assessee stating therein that since the assessee was already holding a valid approval in Form no. 10AC and hence, the application of the assessee for grant of final/regular approval under clause (iii) of 1st proviso to sub-section (5) of section 80G of the Act was not maintainable.

6. However, this issue has been resolved by the CBDT by issuance of a Circular bearing No. 11 of 2022 on 3rd June, 2022. The Board has clarified as under:-

“3. It may be noted that as per the new procedure for approval/registration of charitable entities, which was notified vide Notification No 19/2021 dated 26.03.2021, the entities seeking re-registration/ approval or provisional registration/ approval (fresh) are required to file an application in Form 10A. Further, the order granting registration or provisional registration or approval or provisional approval is made in Form 10AC subject to the fulfilment of certain conditions.

4. In view of the amendments made vide Finance Act, 2022, the conditions subject to which the registration/approval or provisional registration/ provisional approval was granted to

trusts and institutions need to be revised to align the same with the amendments made by Finance Act, 2022.

5. In view of the above, it is hereby clarified that,-

- (i) the conditions contained in Form No. 10AC, issued between 01.04.2021 till the date of issuance of this Circular, shall be read as if the said conditions had been substituted with the conditions as provided in the Table 1 with effect from 1st April, 2022;

Table 1

Sl. No	Section Code	Section under which order is passed	Conditions
1	01	Clause (a) of sub-section (1) of section 12AB	As per Annexure A
2	02	Clause (c) of sub-section (1) of section 12AB	As per Annexure B
3	03 to 06	Clause (i) of second proviso to clause (23C) of section 10	As per Annexure C
4	07 to 10	Clause (iii) of second proviso to clause (23C) of section 10	As per Annexure D
5	11	Clause (i) of second proviso to sub-section (5) of section 80G	As per Annexure E
6	12	Clause (iii) of second proviso to sub-section (5) of section 80G	As per Annexure F

(ii) where due to technical glitches, Form No. 10AC has been issued during FY 2021- 2022 with the heading "Order for provisional registration" or "Order for provisional approval" instead of "Order for registration" or "Order for approval", then all such Form No. 10AC shall be considered as an "Order for registration or approval" and, in such cases where Form No. 10AC has been issued, -

(a) under section code 01 (applications seeking re-registration),-

(i) in the heading and in rows 6, 7, 9 and 10 the words ,“ provisional registration” shall be read as “registration”;

(ii) in row 8 the word “ provisionally registered” shall be read as “registered”;

(b) under section codes 03, 04, 05, 06 or 11 (applications seeking re-approval),-

(i) in the heading and in rows 6, 7, 9 and 10 the words ,“ provisional approval” shall be read as “approval”;

(ii)in row 8 the word “provisionally approved” shall be read as “approved”;

(iii) row no 5 of Form No. 10AC (issued for all section codes) shall be read as “Unique Registration Number” instead of “Provisional Approval/ Approval Number” or “Provisional Registration/ Registration Number”, as the case maybe”.

7. A perusal of the above circular would reveal that under sub-clause (ii) of clause 5 of this Circular, it has been contemplated that where due to technical glitches, Form No. 10AC has been issued during FY 2021- 2022 with the heading “Order for provisional registration” or “ Order for provisional approval” instead of “Order for registration” or “Order for approval”, then in all such cases, Form No. 10AC shall be considered as an “Order for registration” or “approval” as the case may be, and, in such cases where Form No. 10AC has been issued, in the relevant columns, wherein the word “provisional registration” or “provisional approval” have been mentioned, they shall be read as “ registration” or “approval” as the case may be.

8. From the above discussion, it comes clear that the relevant provisions of section 80G(5) provide that institutions which were already approved under section 80G(5) prior to the amendment were required to apply under clause (i) of the first proviso for fresh approval, which was to be granted for five years. The

provisions nowhere state that such approval would be provisional. The confusion has arisen only due to technical glitches in Form No. 10AC where such approvals were erroneously mentioned as "provisional". The CBDT Circular No. 11/2022 has clarified this position beyond any doubt by specifically stating that in such cases, the words "provisional approval" shall be read as "approval".

9. This issue has been considered by the Kolkata Bench of this Tribunal in identical circumstances in the case of Ananda Nagar Development Society vs. CIT(Exemptions) in ITA No. 377/Kol/2024 vide order dated 08.0.2025 (the judicial member herein being also the author of the said order) wherein, it was held that where an institution was already approved under section 80G(5) prior to the amendment and had applied for fresh approval under clause (i) of the first proviso to section 80G(5), the approval so granted is a regular approval and not provisional, notwithstanding the inadvertent mention of the term "provisional approval" in Form No. 10AC due to technical reasons.

10. In view of the above discussed position, since the approval granted to the assessee under clause (i) of the first proviso to section 80G(5) is a regular approval valid for five years from AY 2022-23 to AY 2026-27, hence, there is no requirement to the assessee for applying for final/regular approval under clause (iii) to the first proviso to section 80G(5) of the Act. The present appeal of the assessee, thus, is infructuous and not maintainable and the same is accordingly dismissed. However, it is made clear that the dismissal of the above appeal of the assessee will not in any manner tantamount to affect the

approval granted to the assessee vide order dated 28.05.2021 which is valid up to AY 2026-27.

11. In the result, the appeal filed by the assessee is dismissed.

ITA Nos. 1164/Srt/2024, 1166/Srt/2024, 1168/Srt/2024, 1170/Srt/2024, 1173/Srt/2024, 1175/Srt/2024, 1177/Srt/2024, 1179/Srt/2024 & 1181/Srt/2024

12. The facts and issue involved in these appeals are identical to that have been discussed above. In all these cases, the concerned assesses/appellants were already approved under section 80G of the Act prior to the amendment brought by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. The assessee applied for fresh approval under clause (i) of the first proviso to section 80G(5)] of the Act, which was duly granted in the prescribed Form No. 10AC valid for 5 assessment years. However, due to technical glitches in format of Form No. 10AC, the registration/approval was erroneously shown as "provisional", whereas, the CBDT has clarified that the same is a regular approval. Our findings given above, on the identical issue in the lead case ITA No. 1162/SRT/2024 will mutatis mutandis apply to all the captioned appeals. All the captioned appeals, thus, are hereby dismissed subject to the observations made above.

13. In the combined result, all the 10 appeals filed by different assesseees are dismissed.

Order is pronounced on 16-04-2025.

Sd/-
(Bijayananda Pruseth)
Accountant Member
Ahmedabad : Dated:16/04/2025

Sd/-
(Sanjay Garg)
Judicial Member

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Surat
6. Guard file.

By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Surat