

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

आयकर अपील सं./ITA No.1209/SRT/2024

(Physical Hearing)

Rajsthan Yuva Sangh, 67/38, Gayatri Nagar, Poona Gaon, Surat – 395010	Vs.	The CIT(Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAATR7026D		
(Appellant)		(Respondent)

Appellant by	Shri Suresh K. Kabra, CA
Respondent by	Shri Ravi Kant Gupta, CIT(DR)
Date of Hearing	13/02/2025
Date of Pronouncement	29/04/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal emanates from the order dated 24.10.2024 passed by the Learned Commissioner of Income-tax (Exemption), Ahmedabad [in short “the Ld. CIT(E)”], wherein the CIT(E) rejected assessee’s application filed in Form No.10AB u/s 80G(5)(iii) of the Income-tax Act (for short ‘the Act’) and cancelled the provisional registration.

2. The grounds of appeal raised by the assessee are as follows:

“1. The Ld. CIT(E) was not just and proper on the facts of the case and in law in rejecting the application of the Trust for approval registration u/s 80G(5).

2. **PRAYER:**

2.2 *Personal hearing may be granted.*

2.3 *Any other relief that your honours may deem fit may be granted.”*

3. The brief facts of the case are that the assessee-trust filed an application for approval under clause (iii) of first proviso to subsection (5) of section 80G of the Act in Form no.10AB electronically. The CIT(E) issued notices on 11.07.2024 and 01.10.2024. He has discussed legal background of Rule 11AA(1), 11AA(2), section 80G(5) along with Explanation – 3 and Provision of sub-section (5B) introduced w.e.f. 01.04.2000 and section 2(15) of the Act. He noted that the date of application for registration for approval in Form No.10AB was 01.04.2024 and the date of provisional approval was 12.10.2023 for the period from AY.2024-25 to 2026-27. Thereafter, the CIT(E) examined the objects of the trust and observed that one of the objects is religious in nature which contravenes main condition of section 80G(5) of the Act. He held that assessee trust is not established only for charitable purposes. Hence, the applicant is not entitled to get approval u/s 80G(5) of the Act and therefore, application in Form No.10AB for approval under clause (iii) of the first proviso to section 80G(5) was rejected and provisional approval was also cancelled.

4. Aggrieved by the order of CIT(E), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted that the trust has been working for welfare of various under privileged sections of the society. It provides medical services to everyone, regardless of caste, creed, religion or gender. He submitted that the constitution of the trust might have included the phrase “religious education”

in a broad sense along with other educational and social objects. He submitted that no religious practice was conducted by the trust and the focus was on providing education, health care and social welfare. He submitted that no expenditure was incurred on religious education. He relied on the decision of Co-ordinate Bench of ITAT, Ahmedabad in case of Shree Bhandari Gnyati Mandal, in ITA No.1503/Ahd/2021, dated 24.12.2024.

5. On the other hand, learned Commission of Income-tax – Departmental Representative (Id. CIT-DR) for the revenue supported the order of CIT(E).

6. We have heard both parties and perused the materials available on record. The Id. AR submitted that only part of the objects was religious teaching but no expenditure whatsoever was incurred on such object. We find that under similar facts, the matter has been restored to the file of CIT(E) in the case of Shree Bhandari Gnyati Mandal (supra) for necessary verification and fresh adjudication. For ready reference, relevant part of the order is reproduced below:

“5. On going through the records of the case, we observe that the word “religious” is only coming at one place in the objects of the assessee / applicant trust i.e. at Object No. 3, which is reproduced for ready reference:

*“3) To provide social, cultural, moral, professional, **religious** as well as Vedic support to caste members.”*

*6. Now on going through Section 80G(5) of the Act, it states that this section applies to donation to any institution or fund only if it is established in India for a “charitable purposes”. Further, Explanation 3 to Section 80G states that the term “charitable purpose” does not include any **purpose the whole or substantially the whole of which is of a religious nature**. Further, Section 80G(5B) states that notwithstanding Explanation 3, any institution or fund which incurs expenditure which is of a religious nature **for an amount not exceeding 5% of it’s total income for that previous year** shall be deemed to*

be an institution or fund to which the provisions of Section 80G shall apply. Now, from a combined reading of these provisions it is apparent that in case any trust applies or expends less than 5% of his income towards religious purposes, then it cannot be denied benefit of deduction under Section 80G of the Act on the ground that has been incorporated for religious purposes. Further, even in the definition of the term "charitable purposes" it has been stated that the purpose of Trust should not one which is wholly or substantially wholly which of a religious nature. Therefore, even as per Explanation 3 referred to above, in order to qualify as "charitable purpose" within the meaning of section 80G of the Act, the only qualification is that the activities should not be wholly or substantially wholly religious. Therefore, in view of the statutory provisions quoted above, we are of the considered view that the application for grant of deduction under Section 80G cannot be denied to the assessee only on the ground that one of the objects content the term "religious". Further, we observe that the applicant / assessee trust had specifically submitted that the trust has not incurred any expenditure towards religious purposes. However, Ld. CIT(E), without carrying out any enquiry into this aspect, summarily rejected the application filed by the assessee / applicant trust. In fact, Ld. CIT(E), while rejecting the application for grant of registration under Section 80G of the Act has not dealt with any of the submissions / contentions of the assessee / applicant trust submitted during the course of hearing, which in our view is against the principles of natural justice.

7. In the result, the matter is restored to the file of Ld. CIT(E) to consider the grant of registration under Section 80G of the Act afresh and to carry out necessary verification whether the assessee / applicant trust has expended / utilized less than 5% of its total income towards religious purposes. If that be the case, the assessee / applicant trust may be granted registration, in accordance with law."

7. The facts of the present case are similar to the facts of the case cited supra. Therefore, the matter is restored to the file of CIT(E) to carry out verification as to whether 5% of the total income of the assessee-trust was spent for religious purpose and thereafter to consider the grant of registration in accordance with law. The appellant should be granted adequate opportunity of hearing before deciding the issue. For statistical purposes, the appeal of the assessee is allowed.

8. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 29/04/2025.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat

दिनांक/ Date: 29/04/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat