

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 25/SRT/2025
(Assessment Year: N.A.)

Gangadhara Sahkari Kelavni Mandal, At Post Gangadhara, Nr. Gangadhara Police Station, Surat Bardoli Road, Tal: Palsana, Dist: Surat-393410	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No. AAATG1976H]		
(Appellant)	..	(Respondent)

Appellant by :	Ms. Dharti Jariwala, C.A.
Respondent by:	Shri Mukesh Jain, CIT DR

Date of Hearing	23.04.2025
Date of Pronouncement	06.05.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad vide order dated 15.11.2024.

2. The assessee has raised the following grounds of appeal:

“(1) Trust is purely charitable trust as it get registration with charity commissioner in “E” Category. Because “E” Category is for Charitable Trust.

(2) Trust has registration with 12A under Income Tax Act-1961, CIT(Exempt)(A’Bad) take trust as Charitable Trust for Sec 12A registration.

For 12A honourable CIT treat trust as Charitable Trust, Then how can he treat trust as composite for registration U/S 80G?

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- (3) Trust has registration U/S 10(23)© from the Asst. Year 2010-2011.
- (4) Trust is also registered with NGO DARPAN. It Darpan ID is GJ/2023/0338260 COPY OF REGISTRATION IS ATTACHED.
- (5) Trust receive grant for salary, Nibhav Grant, washing allowance etc...from DO office(Grant GR is attached)
- (6) Trust do not have any religious expenditure.
- (7) To have Devi Saraswati Idol is comman matter in each and every school. Students do prayers and sing RASTRA GEET (NATIONAL AENTHAM) is also comman in school and it is reputation for the school.
- (8) Photos of school are attached.
- (9) We are attaching certain decision of ITAT to support our application.
- (10) The clause of trust deed for which honourable CIT want explanation is as under:
....
English translation of these clause is as follows:
...
Our explanation for the clause is as under:
....
Thus, to have School, library, pathsala, Gymnasium is common in every school.
- (11) Trust get registration for Sec 80(G) in past with the same trust deed. Further trust deed contain these clause from the inception but trust do not carry any religious activity and do not have any religious expenditure.

Thus, in Sum Up, Trust is not composite trust but purely charitable trust with main object of Education. So we request your honour to consider the fact of registration and other fact of the case and to grant registration of the Sec 80(G) of the Income Tax Act-1961."

3. The brief facts of the case are that the assessee trust applied for grant of registration u/s 80G of the Act, however, the CIT(Exemptions) dismissed the application for grant of registration under section 80G of the Act on the ground that one of the objects of the assessee/applicant trust is of a "religious" nature. During the course of proceedings for grant of approval under section 80G of the Act, the assessee/applicant trust

submitted that the assessee is a charitable trust which is running a school, with the main object of providing education. It runs a school in the name of Gangadhar High School and runs classes from junior to 12th standard. The assessee submitted that the trust has not been formed to involve in any religious activity, however, it provides knowledge of religion in the school so that the students are also having spiritual knowledge as well, apart from education.

4. However, CIT(Exemptions) was of the view that by including the word “religious/dharmic” in one of the objects of the trust, there was violation of section 80G of the Act and hence, the assessee could not be granted registration under section 80G of the Act, since the assessee trust was not established purely for charitable purposes. Accordingly, the application for grant of approval under section 80G of the Act was dismissed/rejected by CIT(Exemptions).

5. The assessee is in appeal before us against the aforesaid order passed by CIT (Exemptions), rejecting the grant of approval under section 80G of the Act. The primary contention of the counsel for the assessee/applicant trust is that the assessee is a school which has been operating since 1954. The primary object of the assessee/applicant is of running a school from junior standard to class XIIth standard and further, the counsel for the assessee pointed out that from a perusal of the objects of the trust, it is evident that the assessee/applicant trust has not been formed for any religious purposes whatsoever. The use of the term “religious” in one of the objects of the assessee trust was only for imparting spiritual knowledge

to the students through prayers and that by itself does not make the trust as not having being formed for charitable purposes. The counsel for the assessee submitted that the assessee/applicant trust is a government aided school and has been in operation since 1954 and accordingly, it was submitted that CIT (Exemptions) erred in facts and in law in rejecting grant of approval under section 80G of the Act to the assessee/applicant trust.

6. Before proceeding with the matter, it would be useful to reproduce the objects of the assessee/applicant trust for ready reference:

The objects of this society are as under:-

(A) *To diffuse all sorts of education in Gangadhara & its out skirted area. To Start & establish student Hostel, School. Library, Pathshala, Gymnasium etc. organization pertaining to education by which, to diffuse the education of physics, industrial, scientist mechanical, agricultural, social, literature moral, intellectual, **religion & physical** thereby to be helpful to society for cultural & sons benefit.*

(B) *To establish & run necessary institutions of lowest expenditure thereby to provide knowledge of highest level & deep to the students he or she.*

(B) *To encourage directly or indirectly for the cause of the education, to arrange for lectures, Public address, meetings, classes for education & conference.*

(C) *To promulgate the study, to make arrangement for scholarship & loan with or without interest for the fees of schools, colleges & hostels.*

(D) *To establish, & maintain mobile libraries, study rooms, writing rooms, investigating libraries.*

(E) *To pay & give the scholarship, free ship & prizes to the students & also to accept & manage the funds for it.*

(F) *To establish, run, accept & manage trusts, funds or endorsement in support of the aforesaid one or more objects & to purchase properties & to sell & to make documents for it, to construct & to repair the buildings & to handle & run the management of educational institute. But in case of any trust or property or share or bond etc. if liability is more than its value then if it will be convent to the society than only it can be accepted similarly any shares, securities, debentures, bonds, having limited liabilities would if found proper than only society will accept it.*

7. On perusal of the objects of the trust, it is evident that the assessee/applicant trust has not been formed for imparting religious education. The assessee trust was incorporated in 1954 and has been running a school having classes from junior to 12th standard. In our considered view, in light of these facts, CIT (Exemptions) has erred in not appreciating the facts of the assessee/applicant trust while holding that the objects of the assessee trust are partly religious in nature and thereby, rejecting grant of approval under section 80G of the Act. Section 80G(5) of the Act, 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 combined reading of these provisions it is apparent that in case any trust applies or expends less than 5% of it’s income towards religious purposes, then it cannot be denied the benefit of deduction under Section 80G of the Act on this basis alone. Further, even the definition of the term “charitable purposes” has been explained to mean the purpose “the whole or substantially the whole of which is of a religious nature”. Therefore, even as per Explanation 3, referred to above, to qualify as charitable purpose, the only qualification is that the activities should not be wholly

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or substantially 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 contain the term “religious”.

8. In the result, in the light of the above discussion, the appeal of the assessee is allowed.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 06/05/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad; Dated 06/05/2025

TANMAY, Sr. PS

TRUE COPY

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(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat