

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA No.1248/SRT/2024**

**(Physical Hearing)**

Shree Mahavideh Charitable Trust, 0/B/4, Tribhuvan Complex, Ghod Dod Road, Surat - 395007	<b>Vs.</b>	The CIT(Exemption), Ahmedabad
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABDTS9848Q</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

**आयकर अपील सं./ITA No.1276/SRT/2024**

Sawani Foundation Trust, Sawani Rehna Yasin, 804, Luxuria Trade Hub, Near V. R. Mall, Dumas Road, Surat – 395007	<b>Vs.</b>	The CIT(Exemption), Ahmedabad
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABDTS3048Q</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

<b>Appellant by</b>	Shri Sapnesh Sheth, CA
<b>Respondent by</b>	Shri Ritesh Mishra, CIT-DR
<b>Date of Hearing</b>	13/03/2025
<b>Date of Pronouncement</b>	13/05/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUETH, AM:**

These appeals emanate from the separate orders, both dated 23.10.2024, passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad [in short “the 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 registrations. Since the facts

and the grounds of appeal are similar in both cases, with consent of both parties, these appeals are clubbed and heard together, and disposed of by a common order for the sake of convenience and brevity. ITA No. 1248/SRT/2024 is taken as the 'lead case'.

2. The grounds of appeal raised by the assessee in ITA No. 1248/SRT/2024 are as follows:

*"1. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the Appellant Trust in form 10AB for grant of approval under clause (iii) of first proviso to section 80G(5) of the I.T. Act.*

*2. It is therefore prayed that order of Id. Commissioner of Income-tax (Exemption) rejecting application of assessee may please be quashed.*

*3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

3. The grounds of appeal raised by the assessee in ITA No. 1276/SRT/2024 are as follows:

*"1. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the Appellant Trust in form 10AB for grant of approval under clause (iii) of first proviso to section 80G(5) of the I.T. Act.*

*2. It is therefore prayed that order of Id. Commissioner of Income-tax (Exemption) rejecting application of assessee may please be quashed.*

*3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

4. 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 03.10.2024. 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 27.04.2024 and the date of provisional approval was 24.06.2022 for the period from 24.06.2022 to AY.2025-26. Thereafter, the CIT(E) examined the objects of the trust and observed that some objects are religious in nature, which contravene the main condition of section 80G(5) of the Act. The appellant had also not given any clarification in respect of religious objects mentioned in the trust deed. The trust has also not furnished details of actual religious expenditure to enable the CIT(E) to verify the violation of sub-section (5B) of section 80G of the Act. Accordingly, 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. 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.

5. 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 granted permanent registration u/s 12AB of the Act. However, permanent registration u/s 80G was rejected only after two months from the date of granting of permanent registration. He submitted that the expenses incurred for religious purpose was 'Nil'. Further,

the main object of the trust was to establish, run and maintain schools, colleges, research institutes and hostels for promotion of education and to assist other institutions engaged in such activities. He submitted that the constitution of the trust might have included the phrases such as religious knowledge, etc. in a broad sense along with other educational, social and medical objects. He submitted that no religious activity was conducted by the trust and the focus was on providing education, medical and social welfare. He also submitted that no expenditure was incurred for any religious purpose. He relied on various decisions of Co-ordinate Benches of ITAT.

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

7. We have heard both parties and perused the materials available on record. The CIT(E) observed that the appellant has not furnished complete details regarding the expenditure incurred for religious purpose. He also observed that the appellant has not clarified about the religious objects mentioned in the trust deed. The Id. AR submitted that the trust was for charitable purpose and no expenditure whatsoever was incurred for any religious purpose. We find that under similar facts, the matter has been restored to the file of CIT(E) in case of Shree Bhandari Gnyati Mandal, in ITA No.1503/Ahd/2021, dated 24.12.2024, 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.”*

8. The facts of the present case are similar to the facts of the case cited supra. The Id. AR submitted that the use of the words religious or religion in a few objects of the trust deed does not mean that the trust was not for charitable purpose but was for religious purpose. This is clear from the fact that the trust has not incurred any expenditure which was of religious nature. We find that the appellant has not given any details of actual religious expenditure to the CIT(E). 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. The appellant is directed to furnish all details needed by the CIT(E) during the fresh proceedings. For statistical purposes, the appeal of the assessee is allowed.

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

**ITA No.1276/SRT/2024:**

10. The facts of the case are similar to the facts of the case decided above. The grounds raised by the appellant are also similar. Hence, following the reasons given in the aforesaid order, the order of CIT(E) is also set aside

and the matter is restored to CIT(E) for fresh adjudication in terms of the direction given above. For the statistical purpose, the appeal is allowed.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 13/05/2025.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat

दिनांक/ Date: 13/05/2025

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

By Order

**// TRUE COPY //**

Assistant Registrar/Sr. PS/PS  
ITAT, Surat