

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.100/SRT/2025
(Hybrid Hearing)

Swami Shree Akhandanand Sagar Education and Medical Charitable Trust, Madhuvan Ashram, Ved Karada Street, Surat – 395004, Gujarat	Vs.	CIT (Exemption), Ahmedabad
स्थायीलेखासं./जी आइ आरसं./PAN/GIR No: AAKTS7546M		
(Appellant)		(Respondent)

Appellant by	Shri Sapnesh Sheth, CA
Respondent by	Shri Mukesh Jain, Sr. DR
Date of Hearing	01/05/2025
Date of Pronouncement	30/05/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH:

This appeal by assessee emanates from the order dated 21.11.2024, passed by the Commissioner of Income-tax (Exemption), Ahmedabad [in short, 'CIT(E)'], wherein the CIT(E) rejected the application filed in Form No.10AB for approval u/s 80G(5)(iii) of the Income-tax Act (in short, 'the Act').

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

“1. On the facts and in circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Exemption) has erred in rejecting the application filed by the assessee trust without granting reasonable opportunity of hearing.

2. On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income Tax (Exemptions) 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.

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

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

3. Brief facts of the case are that the assessee filed application in Form No.10AB under sub-clause (B) of clause (iii) of first proviso to sub-section (5) of section 80G of the Act. The CIT(E) had issued notices of hearing on 12.09.2024 and 29.10.2024 and requested assessee to furnish details and documents. The applicant had neither filed any submission nor sought any adjournment. The CIT(E) relied on the decisions of Hon'ble Supreme Court in case of CIT vs. Dawoodi Bohra Jamat, in Civil Appeal No.2492 of 2014 and M/s New Nobel Educational Society, in Civil Appeal No.3795 of 2014. The CIT(A) has observed that due to failure of assessee to file documentary evidences; he was unable to be satisfied about (i) genuineness of the activities of the institution or fund and (ii) the fulfilment of all the conditions laid down in clauses (i) to (v) of section 80G(5) of the Act. The CIT(E) rejected the application filed in Form 10AB for approval under clause (iii) of section 80G(5) of the Act.

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 assessee could not represent its case before the CIT(E) and the order being an *ex parte*, stood vitiated on account of violation of principles of natural justice. He submits that the assessee had not received the notices issued by the CIT(E) on 12.09.2024 and 29.10.2024 and hence, the assessee

could not file the documents and evidences before the CIT(E), which resulted in the CIT(E) passing an *ex parte* order. Therefore, Id. AR requested that an opportunity may be granted to the assessee to plead his case before the CIT(E) in the interests of justice and fair play.

5. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue did not have any objection if the matter is remitted to the file of the CIT(E) for fresh adjudication.

6. We have heard both the parties and perused the materials available on record. We note that assessee-trust could not plead its case before the CIT(E) by submitting explanation and other details/documents as requisitioned by the CIT(E) vide his notices dated 12.09.2024 and 29.10.2024. The CIT(E) passed an *ex parte* order based on materials available in the application for registration of the trust u/s 12AB of the Act. The reasons for not filing further details have been properly explained by the Id. AR. The Id. Sr. DR has also no objection, if matter is remitted to the CIT(E). Considering all these facts, we are of the view that one more opportunity should be given to the assessee to plead its case before the CIT(E). It is settled law that principles of natural justice require that the affected party is granted sufficient opportunity of being heard to present his case. Therefore, without delving deeper into the merits of the case, in the interests of justice, we restore the matter to the file of CIT(E) for fresh adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee. The assessee is directed to furnish its submission and the relevant

details/documents before the CIT(E). For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 30/05/2025.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat
दिनांक/ Date: 30/05/2025
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

// TRUE COPY //

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat