

IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.924/RJT/2024

Assessment Year: (NA)
(Hybrid Hearing)

Shri Kutch Vagad Be Chovist Sthankuast Jain Visha Shrimali Samaj, Mahavir Jain Boarding, Nr. Bhuj English School, Hospital Road, Bhuj – 370001. Gujarat	Vs.	The Commissioner of Income Tax, (Exemption), Ahmedabad.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAITS4939E		
(Appellant)		(Respondent)

Appellant by : Shri Hatim Bharmal, Ld. A.R.
Respondent by : Shri Sanjay Punglia, Ld. CIT. DR
Date of Hearing : 26/03/2025
Date of Pronouncement : 17/06/2025

आदेश / O R D E R

Per, Dr. A. L. Saini, AM:

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax (Exemption) (in short ‘the Ld.CIT(E)’), vide order dated 21.11.2024, wherein the Ld.CIT(E) has rejected the assessee’s application in Form No.10AB, for approval u/s.80G(5)(iii) of the Act, and has also rejected provisional approval of the assessee.

2. Grounds of appeal raised by the assessee, are as follows:
1. *The learned Commissioner of Income-tax (Exemptions)-1 Ahmedabad, erred in rejecting the application for registration u/s 80G of the Act, made by the Appellant.*
 2. *The learned Commissioner of Income-tax (Exemptions) Ahmedabad erred in not considering the copies of documents filed with the application for the registration, as per rules and therefore, erred in not holding that no verification of objects and activities could be made.*
 3. *The Appellant craves, leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal.*

3. Succinctly, the factual panorama of the case is that assessee before us is a Trust and filed application before learned CIT (Exemption), for approval of the trust/institution/fund under clause (iii) of first proviso to sub-section (5) of section 80G of the I.T. Act, 1961. Notices were issued by the learned CIT (Exemption) from time to time, as per details given in the order of ld CIT(E), requesting to furnish details/documents. In response to the notices of the Ld. CIT(E), the assessee, has neither filed any submission nor sought any adjournment. Hence, in the absence of requisite details, the requirements of Rule 11AA(2) of I.T. Rules 1962 remains uncompiled with. Other details/documents called for by ld CIT(E) were also not submitted by the assessee trust. Hence, the Ld.CIT(E) held that assessee has failed to file any documentary evidences to satisfy him about the genuineness of activities of the trust & fund and also not able to satisfy the conditions mentioned in section 80G(5)(iii) of the Act. Therefore, learned CIT(E) rejected the assessee`s application in form number 10AB for approval under section 80G(5)(iii) of the Act.

4. Aggrieved by the order of the Ld.CIT(E), the assessee is in appeal before us.

5. Learned Counsel for the assessee, argued that assessee could not submit the details and documentary evidences before the Ld.CIT(E) due to severe illness of responsible person of the trust, who was supposed to file the relevant details, before the Ld.CIT(E). Therefore, Ld.Counsel for the assessee prayed the Bench that one more opportunity should be given to the assessee, to file the relevant documents and evidences before the Ld.CIT(E). The Ld.Counsel also submitted that the assessee`s registration u/s.12AB is effective and the approval u/s. 80G(5)(iii) has been denied due to non -submission of required documents and evidences before the Ld.CIT(E). Therefore, the Ld. Counsel contended that now the assessee is ready to furnish the relevant documents and evidences before the Ld.CIT(E), therefore, the matter may be remitted back to the file of the Ld.CIT(E) for fresh adjudication.

6. On the other hand, learned DR for the revenue, relied on the findings of the Ld.CIT(E).

7. We have heard the Learned Counsel appearing on behalf of the respective parties at length. We note that due to severe illness of the responsible person of the Trust, the relevant documents and evidences could not be submitted before Ld.CIT(E), for approval u/s.80G(5)(iii) of the Act. Now, the assessee is ready to submit all the relevant documents and evidences before the Ld.CIT(E). Therefore, we are of the view that one more opportunity should be given to the assessee to plead his case before the Ld. CIT(E), by furnishing, the relevant documents and details for approval u/s.80G(5)(iii) of the

Act. Considering the above facts, we note that assessee could not plead his case successfully before the ld. CIT(E). We note that the ld. CIT(E) did not discuss the assessee's case on merits based on the documents and evidences, which will be submitted by the assessee. We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(E) for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the ld. CIT(E) and remit the matter back to the file of the ld. CIT(E) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 17/06/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

Rajkot

(True Copy)

दिनांक/ Date: 17/ 06/2025

Copy of the Order forwarded to:

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

By Order
Assistant Registrar/Sr. PS/PS
ITAT, Rajkot