

**आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"B" BENCH, AHMEDABAD**  
**BEFORE S/SHRI SANJAY GARG, JUDICIAL MEMBER**  
**AND**  
**MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.306/Ahd/2025**

**Asstt.Year : -**

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| Shri Swaminarayan Mahila<br>Sanskar Kendra<br>7/73, Shanti Apartment<br>Nr. Shashtrinagar Shopping Centre<br>Ahmedabad 380 013.<br>PAN : AABTS 0861 J | Vs. | The CIT(Exemption)<br>Vejalpur, Ahmedabad. |
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| <b>(Applicant)</b> |  | <b>(Responent)</b> |
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| Assessee by : | Shri Manish J. Shah, and<br>Shri Jimi Patel, AR's |
| Revenue by :  | Shri R.P. Rastogi, CIT                            |

सुनवाई की तारीख/Date of Hearing : 25/06/2025

घोषणा की तारीख /Date of Pronouncement: 04/07/2025

**आदेश/O R D E R**

**PER MAKARAND V.MAHADEOKAR, AM:**

This appeal has been preferred by the assessee against the order dated 30.12.2024 passed by the Commissioner of Income Tax (Exemption), Ahmedabad [hereinafter referred to as "CIT(E)"], rejecting the application filed by the assessee in Form No. 10AB seeking regular approval under clause (iii) of the first proviso to section 80G(5) of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] and also cancelling the provisional approval granted earlier.

**Facts of the Case**

2. The assessee is a public charitable trust registered under section 12AB of the Act and was earlier granted provisional approval under clause

(iv) of the first proviso to section 80G(5) vide order dated 24.09.2021, valid for Assessment Years 2022–23 to 2024–25. On 26.06.2024, the assessee filed an application in Form 10AB electronically for seeking regular approval under clause (iii) of the first proviso to section 80G(5). Pursuant to this, notices were issued by the CIT(E) calling for further details. A show-cause notice dated 03.12.2024 was issued wherein the CIT(E) objected to clause 3(x) of the trust deed which referred to organizing “Bhajans of Prabhu Bhakti” and concluded that such an object was religious in nature. On that basis alone, the CIT(E) held that the assessee was a religious-cum-charitable trust and hence not eligible for approval under section 80G(5) in view of the bar contained in Explanation 3 thereto.

3. Aggrieved by the order of CIT(E) the assessee is in appeal before us raising following grounds of appeal:

1. *The learned CITE) has erred in law and on facts of the case, in denying approval u/s. 80G(5) to the assessee.*
2. *The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.*

4. Before us, the learned Authorised Representative (AR) submitted that the CIT(E) erred in law in mechanically isolating a single clause from the trust deed without evaluating the trust’s dominant purpose, actual activities, and financial disclosures. It was submitted that the assessee trust was established in 1994 and is engaged in charitable activities such as education, vocational training, women empowerment, and cultural development. The clause relied upon by the CIT(E), when read in context, forms part of a broader cultural objective and is not indicative of religious instruction or practice. The AR further submitted that the assessee had placed on record an undertaking affirming non-incurrence of religious expenditure in excess of 5% of total income, and that Form 10BB for F.Y. 2022–23, filed before CIT(E), contains no adverse remarks from the auditor. These facts were not considered by the CIT(E), and the rejection was entirely based on inference drawn from a textual reference, unsupported by actual conduct. The AR thus prayed that the impugned order be set aside and the

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matter be remanded to the CIT(E) for fresh adjudication. The learned Departmental Representative (DR) did not raise any objection to this request.

5. We have considered the rival submissions and perused the materials on record. It is not in dispute that the assessee is a trust established in the year 1994 and has been actively engaged in charitable activities for over two decades. The record indicates that the trust undertakes programs relating to education, vocational training, women empowerment, and cultural development, all of which squarely fall within the ambit of “charitable purpose” as defined under section 2(15) of the Act. The basis for rejection of approval under section 80G(5) by the CIT(Exemption) is a single clause, clause 3(x) of the trust deed, which refers to organising “*Bhajans of Prabhu Bhakti*”. However, when this clause is read in the context of the trust’s larger framework of objectives, which prominently include education, women empowerment, vocational training, and cultural upliftment, it appears to be a supportive or incidental component aimed at enriching cultural and artistic engagement. The trust deed, when read holistically, reveals that the dominant and substantial purpose of the trust is charitable in nature. There is no material on record to suggest that the trust undertakes religious instruction, propagation, or worship. In such circumstances, isolated reliance on one clause, without evaluating its relevance to the broader charitable mandate, cannot be a valid ground for rejecting approval under section 80G(5). Further, the assessee had furnished an undertaking stating that no expenditure was incurred on religious activities in excess of 5% of total income, and submitted audited financial statements, including Form 10BB for F.Y. 2022–23, in which no adverse remark was recorded by the auditor. These evidences were available before the CIT(E) but were neither controverted nor discussed in the impugned order.

6. In our considered view, the CIT(E) has failed to appreciate the facts. The rejection of approval without addressing or contradicting these documents reflects a lapse in the reasoning process and amounts to denial

of natural justice. It is well settled that for the purposes of approval under section 80G, the dominant purpose and actual functioning of the trust must be examined. The mere presence of a clause that can be interpreted as cultural or devotional in a broad sense, without any corresponding activity or expenditure, cannot lead to an inference that the trust is not established solely for charitable purposes.

7. In light of the above, and in the interest of justice, we are of the view that the matter deserves to be re-examined afresh by CIT(E), particularly with reference to the overall purpose and functioning of the trust, and not merely on the strength of an isolated expression in the trust deed. The order of the CIT(E) is hereby set aside, and the matter is restored to his file with a direction to decide the application of the assessee afresh in accordance with law, after affording a reasonable opportunity of hearing.

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

**Order pronounced in the Court on 4<sup>th</sup> July, 2025 at Ahmedabad.**

**Sd/-  
(SANJAY GARG)  
JUDICIAL MEMBER**

**Sd/-  
(MAKARAND V. MAHADEOKAR)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 04/07/2025