

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.129/RJT/2025
निर्धारणवर्ष /Assessment Year: N.A.

Shri Kabir Kirti Mandir Kashi Kabir Ashram Road Kabir Para Road Outside Khambalia Gate Jamnagar. PAN : AABTS0260M (अपीलार्थी/assessee)	बनाम Vs.	The Commissioner of Income Tax (Exemption) Anandnagar Ahmedabad. (प्रत्यर्थी/Respondent)
----------------------------------------------------------------------------------------------------------------------------------------------------------	-------------	------------------------------------------------------------------------------------------------------

निर्धारिती की ओर से/Assessee by. : Shri Dushyant Maharshi, Id.AR
राजस्व की ओर से/Revenue by : Shri Sanjay Punglia, Id. CIT-DR

सुनवाई की तारीख/Date of Hearing : 09/06/2025
घोषणा की तारीख/Date of Pronouncement : 28/08/2025

ORDER

Per, Dr. Arjun Lal Saini, Accountant Member:

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax (Exemption), wherein the Commissioner has denied the approval under section 80G(5)(iii) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), and rejected the assessee's application filed in Form No.10AB for approval in clause (iii) of first proviso to section 80G(5) of the Act.

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

"1. Hon. CIT(Exemption) erred in law as well as on facts in rejecting the registration u/s. 80G(5) by contending that major activities of assessee are religious in nature. Hon. CIT(Exemption) has not appreciated the facts that although having some of the



religious objects, assessee has not made any religious expenditure and income is applied only for charitable purpose.

2. Hon. CIT(Exemption) erred in law in not considering provisions of section 80G(5B) which allows religious expenditure up to 5% of total income. Assessee has not incurred any religious expenditure.

3. Hon. CIT(Exemption) erred in facts in contending that assessee has not furnished the details of actual religious expenditure to verify the violation of sub-section (5B) of the section 80G of the Act. Assessee has submitted details of religious expenses incurred during the course of proceedings in reply to notice issued by Hon. CIT(Exemption).

4. Hon. CIT(Exemption) erred in facts in contending that no details of actual activities are furnished by assessee. Assessee has furnished financial statements reflecting income applied towards charitable objects and also furnished note on activities carried out by trust.”

3. Brief facts qua the issue are that assessee filed an application for approval under clause (iii) of first proviso to sub-section (5) of section 80G of the I.T. Act, 1961 in Form no. 10AB electronically. The notices were issued to the assessee by the Id. CIT(E). Since, the assessee has filed the present application in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the Act. Therefore, Id. CIT(E) analyzed the provisions of section 80G(5) of the Act, as it stands from 01.10.2023, which stipulates as under.

“(iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier”

The Id. CIT(E) noted that Rule 11AA(1) of the Income Tax Rules prescribes the different forms to be filed for making application for approval under clause (vi) of sub-section (5) of section 80G. The Ld. CIT(E) noted that the Constitution of the Trust, wherein para Nos. 2 contains Aims/objects of Trust. Further, objects and some part of objects are found religious in nature. The said objects in the trust deed and instrument of creation of company/trust are religious in nature and not charitable in nature as per section 80G(5) of the Income–tax Act, 1961. Therefore, Id. CIT(E) again issued notice to the assessee to explain the objects of religious in nature. In response, the assessee submitted paper book before the learned



CIT(E) and stated that assessee trust is not created for performing religious activities and most of the objects of the trust are charitable in nature.

4. However, the ld. CIT(E) rejected reply of the assessee and observed that objects/some part of object therein at Sr. Nos. 1 to 7 are found religious in nature, which put the applicant under the category of composite trust i.e. Religious -cum - charitable trust. These objects and activities are reproduced as under for the purpose of ready reference:

"The Kabir Kirti Mandir, Kashi Trust was founded in the year 1974 in Kashi, Uttar Pradesh, with the following aims & objectives:

- 1. To construct beautiful monuments of Satguru Kabir Swami Maharaj Saheb in the Lahartara Ponds at Kamadpur situated at Varanasi (Kasha Puri) in Uttar Pradesh.*
- 2. To form institution in the name of 'Shri Kabir Kirti Mandir, Kashi' and to publish Amrut Mone Amar Vani, Ramaini Sabda Sakshi Doha and Chopai Chand under his spiritual advice and to deliver religious lectures in Hindi or in Sanskrit and other regional languages of various states of India.*
- 3. To get the above-mentioned religious books translated into Gujarati, Hindi, Sanskrit, English or other Regional Language and publish in abroad.*
- 4. To provide the religious books of Kabir Saheb free of cost to the public to spread the religious advices given by Sadguru Satya Kabir Swami in India and abroad, in order to attain spiritual knowledge and peace & happiness.*
- 5. To interpret, understand & discuss the religious and spiritual advices & lectures given by Sadguru Kabir Swami Maharaj by residing with the saints and sadhus at the 'Kabir Kirti Mandir, Kashi and to spread unity and sacredness and for propagating the principle of religion and humanity*
- 6. To greet the people who have renounced the world and aesthetic sadhu saints who are studying Sanskrit or other languages at the Kabir Kirti Mandir, Kashi in Varanasi and also provide them proper facilities for residence and other necessities for studying in any other university or institutional centre.*
- 7. To accept the devotees of Kabir Saheb and provide the facilities of old age ashram for those who need it.*
- 8. The trust is engaged in providing facility for residence to pilgrims for long distance for pilgrimages.*
- 9. The trust is engaged in providing the facilities of education & literature knowledge and also aims to run and establish university & college and maintain the same & to also construct vidhyapith and university of Sadguru Kabir University, if required.*



10. To perform charitable activities for people at large and spread the word of universal brotherhood and spirituality.

11. To preach & follow the custom & tradition of Satya Sadguru Swami Maharaj Saheb and perform the following:

- a. To pray to the Kabir Saheb,*
- b. To feed the hungry,*
- c. To provide clothes to the need*

5. Therefore, Ld. CIT(E) noted that there is clear violation of section 80G(5) referred to in Para 5 above, which put a bar on granting approval under section 80G(5) of Income Tax Act, 1961 to the institution or fund set up for religious purpose or religious cum charitable purpose. The assessee trust should be set up only for charitable purpose. The assessee has also not furnished the details of actual religious expenditure to enable the ld. CIT(E) to verify the violation of sub-section (5) of section 80G of the Act. Therefore, assessee`s application filed in Form 10AB was rejected.

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

7. The ld. Counsel for the assessee submitted that the threshold limit prescribed under section 80G(5) of the Act, that is, up to 5% of the expenses may be considered for religious purpose, and therefore, the approval under section 80G(5)(iii) of the Act should not be denied. The ld. Counsel also submitted that such 5% expenses should be compared with the income and it should not be compared with the expenses to expenses. Therefore, the ld. Counsel submitted that the expenses incurred by the assessee on religious activities is less than 5% of the total income. Therefore, the assessee deserves for registration. The ld. Counsel for the assessee also took us through the Amendment made by the



Financial Bill, 1999 wherein important observations were made by the Finance Minister which are reproduced below:

“Deduction for donations made to funds or institutions for charitable purposes

Under the existing provision of section 80G of the Income tax Act, 1961, a deduction in respect of donations to certain institutions etc. is provided. However, if such fund or institution has in its instrument any provision for the transfer of application funds, time of the whole or any part of the income or asset for any purpose other than a charitable purpose, it cannot avail of the benefit under this section. It has also been provided that for the purpose of this section, 'charitable purpose' does not include any purpose, the whole or substantially the whole of which, is of a religious nature.

Many institutions which are carrying out charitable work are often inspired by the tenets of religion. In order to allow them to show respect to this aspect without depriving them of the benefit of this section, it is proposed to amend the provisions of section 80G so as to provide that in case such institution or fund spend not more than five per cent of its income during the relevant previous year for religious purpose, the benefit of this section will not be denied to them.

The proposed amendment will take effect from the 1st day of April 2000 and apply in relation to assessment year 2000-2001 and subsequent years.

8. Therefore, the Id. Counsel for the assessee also submitted that considering this fact, if some small portion of the religious purpose is just above 5%, the approval under section 80G(5)(iii) of the Act should not be denied to the assessee.

9. The Learned DR for the Revenue, submitted that the assessee has been incurring more religious expenses, and therefore, the Id. CIT(E) has denied the Registration. As per section 80G(5)(iii) of the Act, only those Trusts which are for charitable purposes, and which spend the amount for charitable purpose, can get the approval under section 80G(5)(iii) of the Act. However, in the assessee's case under consideration, the expenses incurred by the Trust, on religious purpose is more than 5% of the amount allowable under section 80G(5) of the Act, and therefore, the assessee has incurred more expenses on religious activities, which is more than 5% of the total income, and hence, the approval under section 80G(5)(iii) of the Act should not be granted. The Id. DR also argued that this issue may be restored to the file of the Id. CIT(A) to examine various expenses,



and to draw a conclusion, whether the assessee has incurred expenses more than 5% of threshold limit prescribed, on religious activities or not.

10. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(E) and other materials brought on record. We note that assessee has resubmitted Form 10AB for final registration u/s. 80G(5) on 26/06/2024. The application is rejected vide order dated 25/12/2024 for the reason that trust has some religious objects. We note that application for registration has been rejected by Hon. CIT(E) only for the reason that trust has some religious objectives out of other charitable objectives. However, the fact that trust is carrying out charitable activities only, and expenses on religious activities, is around 5% of the income of the trust. The rejection is based on a partial view of the trust's objectives without adequately considering the entirety of the trust's purposes. We note that though the trust deed contains some of the objects which can be religious, however, there are other objects also which are of a charitable nature. Thus, though there are some religious objects, this does not preclude the trust from being eligible for registration under Section 80G of the Act. The Income Tax Act does not automatically disqualify trusts with any religious activity, provided their primary object is charitable in nature. The Section 80G(5) allows for registration of trusts whose objects are charitable in nature, even if they have some religious, components, provided the religious activities do not dominate the charitable purposes. Further, the assessee submits that it has not incurred religious expense beyond the limit prescribed u/s 80G(5B) of the Act. The assessee has generated surplus out of religious activities and the same is used for charitable purpose. Thus, the assessee has not violated any provisions of section 80G(5) of the Act, and for that we rely on the judgement in the case of K. V. C. Trust vs. Director of



Income Tax (E), Chennai, [2011] 11 taxmann.com 91 (Chennai), wherein the Chennai Tribunal has observed as under

“A harmonious construction is required of sub-clause (ii) of sub-section (5) and sub-section (5B) of the Act. The assessee had not mentioned any particular community or caste as mentioned in clause (iii) of sub-section(5) of section 80G. None of the prior clauses of clause of the objects mentioned anything regarding any benefit accruing to any particular religious community. A mere mentioning of application of a limited part of the income for religious activity per se, would not render the trust a non-charitable one, when the clause was one among many and all other clauses were purely charitable in nature. There was nothing in the trust deed which would show that the trust was established for the benefit of any particular religious community or caste. When the activities were not pertaining to any particular religion, a mere mentioning of a religious activity without specifying any religion would not by itself make the trust a non-charitable one.

Epecially so, since sub-section (5B) opens with a non obstante clause. If one looks at Explanation 3 to sub-section (5C) of section 80G, it clearly says the charitable purpose does not include any purpose the whole or substantially the whole of which is of a religious nature. A reading of the Object clause of the assessee- trust, would not in any way show that its purpose was in whole or substantially in whole, of religious nature.

In these circumstances, it was opined that the assessee was eligible for registration under section 12AA as well as approval under section 80G, and these were unjustly denied without taking the totality of the circumstances and objects of the assessee. Thus, the order of the DIT(E) was to be quashed and he was to be directed to grant registration under section 12AA and Approval sought by the assessee under section 80G. [Para 7]”

11. In case of assessee, there is no restriction for any caste/community for providing religious education and other education also any person without any barrier of panth /caste/ community can take benefit of the same. We note that main activities of the trust is to provide food to needy persons and to provide cloth and shelter(home) to needy persons, which are clearly charitable in nature. Hence, while deciding eligibility for registration u/s 80G(5) of the Act, the objectives and activities should be verified in totality and registration should not be denied considering limited aspects. Thus, on the basis of above, we note that the trust’s objectives are not wholly or substantially wholly religious in nature and mere having some of the religious objects, it does not preclude the trust to be registered u/s. 80G(5) of the Act. Hence, we direct the learned CIT(E) to grant the approval under section 80G(5) (iii) of the Act, in accordance with law.



12. In the result, appeal filed by the assessee, is allowed for statistical purposes in above terms.

Order is pronounced in the open court on 28/08/2025

Sd/-

(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-

(DR.ARJUNLAL SAINI)
ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date: 28 /08/2025

*vk

आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The assessee
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot