

**आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA No.169/SRT/2025

(Physical hearing)

Smt. Lilavatiben Venilal Dalal Trust Harihar, 16/21 Maskati Plot, Parle Point, Athwalines, Surat-395 007 [PAN : AASTS 5872 J]	बनाम Vs	Commissioner of Income-tax (Exemption), Ahmedabad, Room NO.609, Floor 6, Aaykar Bhawan (Vejalpur), Nr. Sachin Tower, 100 Feet Road, Anandnagar-Prahladnagaar Road, Ahmedabad-380 015
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Rasesh Shah, CA
राजस्व की ओर से /Revenue by	Shri Mukesh Jain- CIT-DR
सुनवाई की तारीख/Date of hearing	10.09.2025
उद्घोषणा की तारीख/Date of pronouncement	16.09.2025

**Order under section 254(1) of Income Tax Act**

**PER DINESH MOHAN SINHA, JUDICIAL MEMBER:**

This appeal by assessee is directed against the order of Ld. Commissioner of Income-tax(Exemption), Ahmedabad [for short, "Ld. CIT(E)"] dated 29.12.2024 rejecting the application filed for approval under clause(iii) of first proviso to sub-section(5) of Section 80G of Income Tax Act, 1961 ('the Act') in Form No.10AB of the Act.

2. Brief facts of the case that notices issued to the assessee-trust on 17.09.2024, 05.11.2024 and 16.12.2024 respectively that assessee has not replied to such notices and Ld. CIT(E) has views that assessee-trust was not interested in pursuing the present application. The assessee-trust has already been granted provisional approval on 28.02.2023 and application of the assessee-trust was rejected on the ground that

it has violated the provision 80G(5B) of the Act in the assessment year 2021-22. It was further viewed by Ld. CIT(E) that assessee-trust is not established for the purpose of charitable and since the assessee-trust has violated the provisions of sub-clause(5B) of Section 80G is making expenditure on religious expenditure on haveli construction above threshold limit of 5%. Therefore, he issued another show cause notice which was not replied to nor any request for adjournment sought for. In absence of requisites details, the Ld. CIT(E) decided the case based on materials available on record and the details/documents furnished along with Form-10AB. Section 80G makes it clear that before granting approval, the Ld. CIT(E) has to satisfy himself about the genuineness of the activities of the trust and fulfilment of all the conditions laid down in clauses(i) to (v) of Section 80G(5) of the Act. In absence of documentary evidence to satisfy the Ld. CIT(E) about the genuineness of activities and fulfilment of the conditions in clauses(i) to (v) of Section 80G(5) of the Act, the Ld. CIT(E) rejected the application filed in Form-10AB for approval u/s 80G(5)(iii) of the Act and he also cancelled the provisional approval. Aggrieved by the order of the Ld.CIT(E), the assessee filed an appeal before us.

3. During the course of argument, the Ld. AR of the assessee argued that because of one reasons or the other reasons the notices issued by the Ld. CIT(E) should not be complied with hence, one more opportunity should be given to explain the case. However, Ld. AR also relied one judgment of ITAT Jaipur Bench in the case of Shiv Ratan Rathi Foundation vs. CIT [2012] 20 taxmann.com 221 (JP) that assessee has

also filed income-tax for AY 2023-24 before us since the matter has not been adjudicated on merit by the Ld. CIT(E) and assessee is asking for an opportunity to contest its case before Ld.CIT(E).

4. On the other hand, Ld. CIT-DR for the revenue, relied upon the order of the Ld. CIT(E) and not objected to the prayer of the Ld. AR.

5. We have heard the rival contentions of both the parties and perused the materials available on record. It was also granted provisional approval on 28.02.2023. The appellant-trust had submitted various details before the Ld. CIT(E) during the proceedings for permanent approval u/s 80G(5)(iii) of the Act. The Ld. AR submitted that the Ld. CIT(E) has passed the instant order without considering the details submitted by the appellant-trust and without giving adequate opportunity of hearing. We have again perused the materials available on record and find that the appellant-trust was not granted proper opportunity of hearing by the Ld. CIT(E) before passing the order. The principle of *audi alteram partem* envisages that parties are eligible for fair hearing and that no one should be condemned unheard. The Ld. CIT-DR has also no objection if the matter is remitted back to the file of Ld. CIT(E). Thus, considering the totality of facts and the prayer of Ld. AR of the appellant-trust, the order of Ld. CIT(E) is set aside and matter is restored back to the file of Ld.CIT(E) to pass the order afresh in accordance with law after giving adequate and reasonable opportunity of hearing to the appellant-trust. The appellant-trust may also file any other relevant information/evidences, in support of the subject application. With this direction, the

grounds of appeal raised by the assessee are treated as allowed for statistical purposes.

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

Order pronounced in the open court on 16/09/2025.

Sd/-  
(BIJAYANANDA PRUSETH)  
लेखा सदस्य/Accountant Member

Sd/-  
(DINESH MOHAN SINHA)  
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 16/09/2025

Dkp Outsourcing Sr.P.S\*

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत