



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

**&**

**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No.123/RJT/2025**

**(निर्धारणवर्ष / Assessment Year: (2025-26))**

Shri Kaka Vallabhji Gruhvallabhya Trust Shree Chandragopalji Govedhaneshji Maharaj, Vekurdi Plot, Porbandar - 360575	<b>Vs.</b>	CIT(Exemption), Room No.609, 6 <sup>th</sup> Floor, Aayakar Bhavan, Nr. Sachin Tower, 100ft Road, Anandnagar-Prahladnagar Road, Ahmedabad-380015
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAHTS6624H</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Viral Vajani, Ld. AR  
Respondent by : Shri Sanjay Punglia, Ld. CIT(DR)

**Date of Hearing** : 24/07/2025  
**Date of Pronouncement** : 16/10/2025

**आदेश / ORDER**

**PER DINESH MOHAN SINHA, JM:**

This appeal is filed by the Assessee as against the Rejection order dated 28.12.2024 passed by the Commissioner of Income Tax (Exemption), Ahmedabad denying Registration under section 80G(5)(iii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. Grounds of appeal raised by the assessee, are as followed:

1) *The Commissioner of Income Tax (Exemption) has erred on facts and in law in rejecting application for registration u/s. 80G(iii) of income tax act, 1961.*

2) *The Commissioner of Income Tax(Exemption) has erred on facts and in law in cancelling registration u/s. 80G(5) of income tax act, 1961.*



3. Brief facts of the case that the assessee is public charitable trust. The appellant is carrying out various charitable activities like food distribution, Relief to Poors etc. The appellant is assessed to tax with Income Tax Officer (Exemption), Ward 2, Rajkot. The appellant is registered u/s.12AB(1)(b) of Income Tax Act, 1961 with registration No. AAHTS6624HE20210 dated 30/09/2021. The appellant had filed application for provisional registration u/s.80G(5)(iv) of the Income Tax Act, 1961 on 08/08/2023. Application was accepted and provisional registration was granted to the appellant by the Principal Commissioner of Income Tax / Commissioner of Income Tax in Form No.10AC from AY 2024-25 to AY 2026-27 vide order dated 15/08/2023. Thereafter, the appellant had filed application for final registration u/s.80G(5)(iii) of the Income Tax Act, 1961 on 27/06/2024. Questionnaire cum notice was issued by The Commissioner of Income Tax (Exemption), Ahmedabad on 18/09/2024 and asked the appellant to submit required details on or before 03/10/2024. Appellant has submitted detailed reply on 04/10/2024. Then after, The Commissioner of Income Tax (Exemption), Ahmedabad has issued show cause notice proposing to reject application and cancel registration on 10/12/2024 and fixed hearing on 13/12/2024. The Commissioner of Income Tax (Exemption), Ahmedabad alleged that the trust is carrying religious activity. Relevant Para of Show cause notice is reproduced as under.

*"On perusal of such details, your attention is drawn towards the objects stipulated in the instrument of creation of trust, wherein it is observed that the object number 5(1) and 5(3) in the trust deed/instrument of creation of company/trust is/are religious in nature and not purely charitable in nature as per Section 80G(5) of the Income-tax Act, 1961. Therefore, please explain that as to how there is no violation of the main condition of Section 80G(5) of the Act and clause(ii) of section 80G(5) of the Act. Also, you are requested to furnish complete details of religious expenditure made towards such objects of Trust in past 3 years.*

*In this regard, you are requested to show cause as to why your application filed in Form 10AB under 80G(5)(iii) of the Act should not be rejected and your provisional approval shall not be rejected for the reason(s) discussed above."*



Thereafter, the appellant had submitted detailed reply on 13/12/2024.

4. That the Ld.PCIT has observed that for the purpose of section 80G(5) of Income Tax Act, 1961, the objects can be only of charitable nature and even not a single object can be religious in nature as unambiguously and explicitly provided for under Explanation 3 to Section 80G of the Act.

Sub-section (5B) of Section 80G of the Act merely further clarifies and qualifies the conditions laid down under clause (ii) of Section 80G(5) of the Act in terms of extent of expenditure of religious nature which could be incurred by trust while carrying out its charitable activities. Sub-section (5B) of Section 80G of the Act does not mandate religious object or allows religious objects to institutions/funds desirous of approval or approved u/s.80G(5) of the Act.

Sec. 80G(5) of the Act applies to the donations to any institution or fund only if it is established in India for a Charitable purpose only. Thus, the purpose or object necessarily have to be only charitable, not religious, for an institution or fund to avail benefits of Sec.80G(5) of the Act. Even if one object is for religious purpose, approval u/s.80G of the Act cannot be granted as there is no way to stop assessee from incurring expenditure on that particular object in excess of 5% since occasion to renew such an approval will arise only after 5 years and any subsequent withdrawal of approval will jeopardize the interests of donor who have made donations in good faith to the assessee trust.

5. The applicant has violated existing main condition of sub-section (5) of section 80G of the Act, i.e, it is not a purely charitable trust. Also it has violated the provisions of clause (ii) of sub-section (5) of Section 80G and explanation 3 to section 80G of the Income Tax Act, 1961 and hence the



applicant is not entitled to get approval u/s. 80G(5) of the Income Tax Act, 1961 therefore the present application filed in Form 10AB is liable to be rejected. Looking to the above facts, the present application filed in Form No. 10AB for approval under clause (ii) of first proviso to section 80G(5) of the Act is rejected and your provisional approval also stands cancelled.

6. That the assessee has challenge the validity of order dated 23.12.2024 of the Ld. CIT(E) by filing the appeal before us.

7. During the course of hearing, Ld. AR submitted that trust is a charitable trust. There is no object to carry out any religious activity, therefore, the Ld. AR prayed that the application may be heard on merit.

8. On the contrary, the Ld. DR for the revenue submitted that 2 object of the trust are religious in nature and, the Ld.DR further relied on the order of the Ld. CIT(E).

9. We have heard both the parties and perused the material available on record, and also perused the paper-book filed by the assessee and the order of the Ld. CIT(E). This trust will work without any discrimination of religion or caste or creed

1) As establish by Shrimad Acharyashri Mahaprabhuji Maharajshri, Sudhadevat pustimarg community system value and offer service as per rituals of shrijiswarup and do religious act and manorath, as per system providing darshan, festival manorath and build and run haveli for common people and do publicity of pustimarg and providing service of darshan to vaishnav and do religious ceremony for publishing community values.

2) To Establish Gau-Shala for Gau-Raksha and Gau-Palan and to Run them and to support other Gau-Shala. Also to do work for development of Humanity and to do social work.



3) To Organize Such Program and do publication of books for development and advertisement of PUSHTHI BHAKTI SAMPRADAY established by Shree Mahaprabhuji.

4) To do all other related activities for above mentioned purposes. Trust Committee has to decide with majority that by what time the above mentioned purpose related work to be continued by them. They have to decide with majority whether to stop or to continue the same. Still, decision taken by Managing Trustee will also be count for the same.

10. The Principal commissioner of Income (Exemption) Ahmedabad has relied on clause No. 5(1) and 5(3) of trust deed and framed the opinion that trust is religious trust. The clauses are for spiritual activities and not for religious activities. We note that the appellant trust has submitted reply and explained that Relevant para of reply and the same is reproduced as under:

*“Justification for Clause 5(1) and 5(3) of Trust Deed:*

**Trust deed Object Clause 5(1):**

*Please note that our trust has never intended to build any temple for any religious purpose or activity. The object is not for carry out any religious activities. The object was added for spreading spiritual ideas of Shrimad Acharya Shri Mahaprabhuji and Pustimarg. We respectfully submit that Shrimad Acharya Shri Mahaprabhuji was born 550 years back and travelled all over India for awaking people from various superstitious belief and customs prevailing in society. He had discussed various such issues with people at large and tried to remove such beliefs from society. Any person from any kind follows his ideology without any bias of caste or crid. His ideology was that every person is equal and there should not be difference of higher social class or lower social class (uch - nich bhed bhav). For example, he was believing that in case of shortage of water in drought period it should be given to need people first and not to use for worship god. Similarly, he had given such lessons for other items like grain, grocery, clothes, milk etc. He was believing in people service rather than God service. He was not religious person he was spiritual person. During that era many misconceptions were prevailing in society and many spiritual persons like Pramukh Swami Maharaj, Kabirji, Swami Vivekanand, Sant Jalaram etc. In earlier past also lord Mahavir Swami and Gautam Buddha had also spread lesson of equalness and jivadaya.*

*In any way our object is only for spreading of spiritual awareness for equalness and service of human kind.*



*Please also note that we have never carried out any religious activities never promoted such activities.*

*Without prejudice to above we also state that even construction of temple is also not religious if it is open for all caste and creed.*

**Trust deed Clause 5(3):**

*Trust is never intended to publish and distribute any kind of religious books or publication. We intended to distribute reading material on the theory of pustimarg established by Shrimad Acharya Shri Mahaprabhuji.*

*Please note that Pushti Marg is not any religious and is promoting equality and working against dis beliefs prevailing in the society. Various publication and reading materials published by them are for awareness of public at large and is promoting way of leaving.*

*However, please note that we have never published or sold any religious books carried out any religious activities and also not planning to carry out such activities in future.*

11. We note that the assessee has filed the detail during last 3 years we have not carried out any religious activities. Detailed chart showing nature wise various activities carried out by us.

Nature of Activity	FY 2021- 22	% of Expense	FY 2022- 23	% of Expense	FY 2023- 24	% of Expense
Educational	18,600/-	19.27%	84,600/-	20.67%	1,78,870/-	42.62%
Relief to Poor	59,600/-	61.74%	3,06,853/-	74.98%	2,20,030/-	52.44%
Religious	0	0%	0	0%	0	0%
Admin and Other Expense	18,332/-	18.99%	17,800/-	4.35%	20,740/-	4.94%
<b>TOTAL</b>	<b>96,532/-</b>	<b>100%</b>	<b>4,09,253/-</b>	<b>100%</b>	<b>4,19,640/-</b>	<b>100%</b>

12. We also believe that if any trust or institute is incurring less than 5% of its gross receipt towards religious purpose then also it will be considered as charitable only. In our case our expenses towards religious activities are ZERO.



13. It is seen that our trust is carried out activities for relief to poor and needy people and needy students only without any bias of caste and cred. Please note that we have spent nothing on religious activities during past 3 years.

14. We also believe that if any trust or institute is incurring less than 5% of its gross receipt towards religious purpose then also it will be considered as charitable only. Trust has no expenses towards religious activities.

15. In the provisions of sub section (5B) were introduced w.e.f. 1.04.2000 is reproduced below:

*"(5B) Notwithstanding anything contained in clause (ii) of sub-section (5) and Explanation 3, an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply."*

16. Thus, Sub-section (5B) of sec. 80G of Income Tax Act, 1961 provides that the institution or fund may incur expenditure, which is of a religious nature, for an amount not exceeding five percent of its total income. The provisions contained in Sub-section (5B) of sec. 80G of Income Tax Act, 1961 are applicable notwithstanding the provisions of clause (5) of Section 80G(5) of Income Tax Act, 1961 as well as Explanation 3 to sec. 80G of Income Tax Act, 1961. This position of law implies that subject to the limit as prescribed in Sub-section (5B) of sec. 80G of Income Tax Act, 1961, an institution or fund may incur expenditure which is of a religious nature and still be eligible for benefits of Section 80G of Income Tax Act, 1961. In other words, even if an institution or fund transfers or applies at any time its whole or any part of income or assets for a religious nature expenditure, which is not for charitable purpose as provided for in Explanation 3 to sec. 80G of Income Tax Act, 1961 as well as being in violation of provisions of clause (ii) of Section 80G of Income Tax Act, 1961, still such institution or fund can avail of benefits of Section 80G of Income Tax Act, 1961 provided that such expenditure, which



is of a religious nature, does not exceed five percent of its total income. In The ITAT Cochin Bench, in the case of Kizhakke Kovilakom Trust [2025] 170 taxmann.com 81 (Cochin - Trib.) V. Commissioner of Income-tax (Exemption) held that;

*INCOME TAX : Where assessee-trust was carrying on activities relating to temple and other charitable activities such as annadanam, since temples were open to general public irrespective of caste, creed, sex, colour etc., and there was no specific instance of violations to allege that assessee trust was a religious trust, assessee was entitled for approval under section 80G(5)(vi)*

17. In view of the above decisions cited (supra) the order of the Ld.CIT(E) cannot be sustained. The Ld.CIT(E) had also not furnished any specific instances in support of his allegation that the assessee is a religious trust. It is also not the case of the Revenue that the trust imposed various restrictions on the public to enter the temple and to have the worship. When there is no specific instances of violations it cannot be simply alleged that the assessee trust is a religious trust. In these circumstances, the denial of approval u/s 80G of the Act is not correct.

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

**Order pronounced in the open court on 16/10/2025.**

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

Rajkot

दिनांक/ Date: 16 /10/2025

**Copy of the Order forwarded to**

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

(True Copy)

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

By Order

Assistant Registrar/Sr. PS/PS



ITAT, Rajkot