



**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. 31/RJT/2025
(निर्धारणवर्ष / Assessment Year: (2024-25)
(Hybrid Hearing)**

Anandbava Seva Sanstha Gaushala Trust, Gopal Bhuvan No, Anandbava Chakalo, Jamnagar 361001	Vs.	The Pr. Commissioner of Income Tax (E), Ahmedabad 380015
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAATA2817K		
(Appellant)		(Respondent)

Appellant by : Shri Mehul Ranpura, Ld. AR
Respondent by : Shri Sanjay Punglia, Ld. Sr. (DR)
Date of Hearing : 22/07/2025
Date of Pronouncement : 21/10/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by assessee pertaining to Assessment Year 2024-25, is directed against order passed by Commissioner of Income Tax (Exemption), vide order dated 25/11/2024, whereby the application u/s. 80G(5)(iii) of the Income Tax Act, 1961 in Form 10AB was rejected.

2. Grounds of appeal raised by the assessee are as follows;

- 1. The grounds of appeal mentioned hereunder are without prejudice to one another.*
- 2. The order passed by the learned Commissioner of Income-tax (Exemption), Ahmedabad (hereinafter referred to as the "CIT(E)")]*



u/s. 80G(5)(iii) of the Income Tax Act, 1961 is bad in law and on facts.

3. The learned CIT(E) erred on facts as also in law rejecting for the application registration u/s.80G(5)(iii) of the Act on the alleged ground that the appellant has violated main condition of subsection (5) of the section 80G i.e. the object of trust is not a purely charitable trust and hence not entitled to get approval u/s.80G(5) of the Act. The learned CIT(E) may kindly be directed to grant registration u/s. 80G(5)(iii) of the Act.

4. Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.

3. Facts of the Case the assessee trust name Anandabava Seva Sanshtha Gaushala Trust established for charitable purpose, trust run a Gaushala for welfare of Cow and other pet animals and provide cattle food and shelter to the cow and pet animals and also provide for veterinary services for all the pet animals (pashudham). The trust registered with charitable commissioner – Gujarat. The application filed From 10AB electronically, the notices were issued to the assessee and the assessee submitted response on 04.09.2024 and 19.11.2024 to the notices, the assessee submitted reply to notice, are as follows;

“A kind attention is invited to your above referred notice through which it has been asked us to furnish details/documents as well as clarification vide your above referred notice.

We were in receipt of the above-mentioned notice which was issued to us under proceedings u/s 80(5) (iii) of the act.

As per the notice it has been stated that the objects as stipulated in the Trust Deed submitted by you. It is observed that the said objects are restricted for the benefit of the Religious Purpose and are not for the benefit of public at large; such objects do not fall under the category of charitable objects as per the provision of section 2(15) of Income Tax Act, 1961. In these regard we wish to state that object mentioned in the notice is one of the object of the trust and as per our trust deed many more objects in relation to charitable purpose and we are doing activities in our trust such as providing fodder &



shelter to cows, medical treatment to cows, kettle feed to dogs & birds which you may found as per our activity photographs provided in the activity report attached herewith from page number 01 to 06.

Extract of the object clause as of charitable nature are reproduced here as under:

- 1. To run Gaushala and at the time of natural calamities and famine to do work to save cow, dumb animal and to help other institution like Gaushala.*
- 2. To help the poor persons*
- 3. To do expense for canvassing the education*
- 4. For the purpose of maintaining Health of cows*
- 5. For the management of any non business public and cultural activities.*

Additionally, it is important to note that these are not the sole objects of our Trust. At present trust has approx 350 cows which are maintained by the Trust. We have several other objects aimed at benefiting the broader community, including initiatives such as Food for cows and Milk at free of cost to elderly & underprivileged. These objects have recently been initiated and are designed to serve the public at large, addressing critical needs and promoting welfare without any religious discrimination. Furthermore, our Trust also provides medical support to cows.

Our Trust has been consistently engaged in charitable activities that benefit the entire community. We have been actively involved in providing food, medical aid, and educational support to underprivileged sections of society. Our Trust's commitment to these social-philanthropic activities demonstrates our dedication to serving the broader community and fulfilling the true spirit of charitable work. These efforts are part of our ongoing commitment to serve the public at large and address various social issues. Our initiatives are designed to uplift and support those in need, regardless of their religious background, thereby fulfilling the true spirit of charitable work as envisioned under section 2(15) of the Income Tax Act, 1961.

We acknowledge regarding the show cause for our application filed in Form 10AB under section 80G(5)(iii) of the Income Tax Act, 1961. We understand the concerns raised and would like to provide the following clarifications:



Charitable Objectives: Our trust is dedicated to numerous charitable activities that benefit the community at large. These activities include but are not limited to social philanthropic activities that includes providing food and support to slum children and poor families and building and management of old age homes, orphanages-schools-colleges without any caste discrimination religious activities, these constitute only a minor portion of our overall operations. The primary focus of our trust remains on charitable activities that serve the public good without discrimination.

Moreover, even in clause if the same is restricted to 5% of the Total Revenue of section 80G(5)(iii), the religious expenditure is restricted to 5% of the total income of the Financial Year. In this regards, we would like to submit that the clause itself does not object to incur religious expenditure if it is within the limits prescribed. It is persistent to note that as per previous reply submitted we have mentioned that we have not incurred any religious expenditure in the last 3 years. Audit report already submitted at the time of filing the Form 10AB & expenditure ledgers are already submitted vide submission dated 04.09.2024 from page no. 25 to 29 for audit report reference from Form 10AB & from page no. 30 to 276 for expense ledger.

Compliance with Section 10AB: We believe that our trust meets the criteria set forth under Section 10AB, as the predominant purpose of our trust is charitable in nature. The inclusion of some religious activities does not detract from our primary charitable objectives.

Impact on Beneficiaries: Rejecting our application would adversely affect the cows which are maintained by the trust & major source of revenue of the trust is from Donation income, If our application is rejected it would also affect the charitable objects of the trust which is also dependent on donation source. We urge you to consider the broader impact on the community and the essential services we provide.

In light of the above, we kindly request you to reconsider the decision and approve our application under Section 10AB. We assure you of our continued commitment to charitable activities and adherence to the legal provisions governing our trust.”

4. After considering the reply/documents was submitted by the assessee trust, Ld.CIT(E) has observed that the objects of the trust are religious in nature. The applicant has violated existing main condition of section



80G(iii)(5) of the Act. i.e. it is not a purely charitable trust. Also it has violated the provision of clause (ii) of sub-section (5) of section 80G of the Act and the applicant is not entitled to get approval u/s. 80G(5) of the Income Tax Act therefore the present application filed in Form 10AB is rejected on 25.11.2024.

5. In light of above discussion and having regard to above extracted provisions of Section 2(15), Section 80G(5), Section 80G(5B) and Explanation 3 to Section 80G(5) of the Act.

(i) 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.

(ii) 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.

(iii) Thus, 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.

iv) It is incorrect to interpret that Sub-section (5B) of Section 80G of the Act overrides provisions of Section 80G(5) of the Act. Provisions of Sub-section (5B) of Section 80G of the Act only clarifies and qualifies the conditionality provided for by clause(ii) of section



80G(5) of the Act and has to do nothing with the object of institutions/funds desirous of approval or approved u/s.80G(5) of the Act. Such institutions/funds are mandatorily required by section 80G(5) and Explanation 3 to Section 80G of the Act to have only charitable objects. This position has been explained by Hon'ble Supreme Court of India in the case of Director of Secondary Education v. Pushpendra Kumar AIR 1998 SC 2230 wherein the Supreme Court held that a provision In the nature of an exception cannot be so interpreted as to sub-serve the main enactment and thereby nullify, the right conferred by the main enactment.

6. That the assessee trust has challenged and legality & validity of order of Ld. CIT(E) dated: 25.11.2024 by filling of an appeal before us.

- (i) During the course of argument, the Ld. AR submitted that the assessee has no religious activity, the details of expanses has been submitted in paperbook. The expanses is less then 5% of total receipt in religious activities.
- (ii) On the contrary the Ld. DR of the revenue relied of the order on the Ld. CIT(E) stating that the object of the trust are religion on nature.

7. We have considered the rival arguments made by both the sides, perused the order of the Ld.CIT and the Paper Book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Ld.CIT in the instant case rejected the application for grant of approval s.80G on the ground that the objects as well as activities of the trust are predominantly religious and the assessee trust has violated the provisions of sub-section (5B) of section 80G by incurring religious/pooja expenses in excess of 5% of the total receipts of the concerned year.

8. The submission of the Ld. Counsel for the assessee that the assessee is not a religious trust at all and the assessee does not propagate any



particular religion. Further, it is also the contention of the Ld. Counsel for the assessee that the Honorarium paid to the Brahmins is not expenditure of the assessee but is the expenditure of the persons visiting the temple and it is the administrative facility provided to the visitors. Therefore, if the same is excluded from the pooja expenses then the expenditure of pooja expenses is less than 5% of the total receipts.

i. The Hon'ble Supreme Court in CIT v. Dawoodi Bohra Jamat, [2014] 43 taxmann.com 243/222 Taxman 228/364 ITR 31 (SC) had observed that the objects of trust as declared in the Trust Deed would govern its right of exemption under sections 11 and 12 of the Act. The Hon'ble Supreme Court also recognized the creation or establishment of trust for either religious or charitable or both religious charitable purposes. By looking at the objects of the trust, it had to be determined whether the objects were wholly religious or wholly charitable or both religious and charitable and it was held that on consideration of the objects of the trust, the religious and charitable purposes and activities of the trust could be determined. It was further held that section 11 of the Act allows such trust with composite objects to claim exemption from tax as a religious and charitable trust, subject to provisions of section 13 of the Act. Though the objects of the trust were based on religious tenets but where the activities of the trust for both charitable and religious were not exclusively meant for a particular religious community, then it would not fall under the provisions of section 13(1)(b) of the Act and it was further held that where the assessee was charitable and religious trust, which did not benefit any specific religious community and hence, it could not be held that the provisions of section 13(1)(b) of the Act would be the Act. The relevant observations of the Hon'ble Supreme Court are as under: -



attracted to the assessee trust and therefore, it would be eligible to claim exemption under section 11 of

"(i) that determination of the nature of the trust as wholly religious or wholly charitable or both charitable and religious under the Act is not a question of fact. It is a question which requires examination of the legal effects of the proven facts and documents, that is, the legal implication of the objects of the assessee-trust as contained in the trust deed. It is only the objects of a trust as declared in the trust deed which would govern its right of exemption under section 11 or 12. It is the analysis of these objects in the backdrop of fiscal jurisprudence which would illuminate the purpose behind creation or establishment of the trust for either religious or charitable or both religious and charitable purpose. Therefore, the High Court had erred in refusing to interfere with the observations of the Tribunal in respect of the character of the trust on the grounds that they were pure findings of fact.

(ii) That the objects of the assessee-trust were not indicative of a wholly religious purpose but were collectively indicative of both charitable and religious purposes. Although objects (c) and (f) which provided for activities completely religious in nature and restricted to the specific community of the assessee-trust were objects with religious purpose only, the fact that the other objects traced their source to the Holy Quran and resolved to abide by the path of godliness shown by Allah would not be sufficient to conclude that the entire purpose and activities of the trust were purely religious in colour. The objects reflected the intent of the trust as observance of the tenets of Islam, but did not restrict the activities of the trust to religious obligations only and for the benefit of the members of the community. The provision of food to the public on religious days of the community, the establishment of Madarsas and organisations for dissemination of religious education and rendering assistance to the needy and poor for religious activities would reflect the essence of charity. The activity of providing for food on certain specific occasions and other religious and auspicious events of the Dawoodi Bohra community did not restrict the benefit to the members of the community. Neither the religious tenets nor the objects as expressed limited the service of food on these occasions to members of the specific community. The establishment of Madarsas or institutions to impart religious education to the masses would qualify as a charitable purpose qualifying under the head of education under the provisions of section 2(15) of the Act. Similarly, assistance by the



assessee-trust to the needy and poor for religious activities would not divest the trust of its altruist character. Therefore, the objects of the trust exhibited the dual tenor of religious and charitable purposes and activities. Section 11 of the Act allowed such trust with composite objects to claim exemption from tax as a religious and charitable trust subject to the provisions of section 13. The Activities of the trust under such objects would, therefore, be entitled to exemption accordingly.

9. Coming to the issue of registration under section 12A of the Act, where the trust was both charitable and religious. The Hon'ble Gujarat High Court in CIT v. Chandra Charitable Trust (supra) had laid down that even where the objects of the trust were not only to propagate the Jainism or help and assist maintenance of temples, Sadhus, Sadhvis, Shraviks and Shravaks, and other goals as set out in the trust deed, the trust was a charitable as well as religious trust and section 13(1)(b) of the Act would not be applicable. Similar proposition has been laid down by the Hon'ble Gujarat High court in CIT v. Barkate Saifiya Society 78 Taxman 6/213 ITR 492 (Gujarat), wherein it was held that the exclusion from exemption under section 13(1)(b) of the Act applies only to charitable trust and charitable institution and if the trust was charitable as well as religious in nature, the assessee would be entitled to exemption under section 11 of the Act.

10. In view of the above decisions cited (supra) the order of the Ld.CIT cannot be sustained. The Ld.CIT 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 annadhanam. 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.



11. In view of the above said discussion, we set aside the order of the Id CIT (E), That the Ld. Council state that the expenditure incurred on the religious object is less then the prescribe limit. However, the assessee has submitted detail evidence before us, in the form of income and expenditure account balansheet, audit report and cash-flow statement for verification of the fact that assessee-trust has not incurred any expenditure. In the aforesaid circumstances and in the light of above discussion, we are inclined to direct the Id. CIT(E) to examine the balance sheet, income and expenditure account and bank statement, in the light of the provisions of section 80G(5B) of the Act, to ascertain the expenditure made by the assessee-trust on religious/spiritual activities are less then the prescribe and adjudicate the issue as per law.

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

Order pronounced in the open court on 21-10-2025.

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

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

Rajkot
दिनांक/ Date: 21/10/2025

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot