

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1893/Ahd/2025
(Assessment Year: N.A.)

Clean & Green Charitable Trust, F-306, Rustam Apartment, Mirza Street, Udvada Gaam, Paradi, Valsad-396185	Vs.	Commissioner of Income Tax (Exemption), Ahmedabad
[PAN No.AACTC6711C]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Mehul K. Patel, Advocate
Respondent by:	Shri Rignesh Das, CIT-DR

Date of Hearing	24.02.2026
Date of Pronouncement	26.02.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Exemption), (in short “Ld. CIT(E)”), Ahmedabad vide order dated 29.09.2024.

2. The assessee has raised the following grounds of appeal:

- “1. That on facts, and in law, the learned CIT (Exemption) Ahmedabad has grievously erred in not granting sufficient and reasonable opportunity of hearing to the appellant.
2. That on facts, and in law, the learned CIT (Exemption) Ahmedabad has grievously erred in rejecting the application for approval u/s 80G(5)(iii) of the Act as the registration u/s 12A(1)(ac)(iii) is rejected.
3. Your appellant craves leave to add/alter or amend any of the grounds till the appeal is finally heard and decided.”

The assessee has filed application for condonation of delay along-with an Affidavit for delay of 310 days in filing of the present appeal along-with an Affidavit:

3. The assessee has filed application for condonation of delay along-with an Affidavit for delay of 310 days in filing of the present appeal. We have considered the application for condonation of delay along with the affidavit filed by the assessee explaining the delay of 310 days in filing the present appeal. On perusal of the affidavit, we find that the assessee is a charitable trust managed by lay trustees who are not well-versed with income-tax procedures and were under a bona fide belief that the rejection of approval under section 80G(5)(iii) of the Act, which was based solely on the absence of registration under section 12A/12AB of the Act, would automatically stand rectified upon the Tribunal setting aside the rejection of registration and the subsequent grant of registration under section 12AB of the Act. The delay has been attributed to this bona fide impression, lack of legal guidance and inadvertent oversight, and there is no material on record to suggest any deliberate negligence or mala fide intent on the part of the assessee. In our considered view, the explanation furnished constitutes sufficient cause within the meaning of law and the delay appears to be unintentional and attributable to genuine and unavoidable circumstances. Keeping in view the principles that substantial justice should prevail over technical considerations, we condone the delay of 310 days in filing the appeal in the interest of justice and admit the appeal for adjudication on merits.

4. On merits, the brief facts of the case are that the assessee, Clean & Green Charitable Trust, filed an application in Form No. 10AB seeking approval under clause (iii) of the first proviso to sub-section (5) of section 80G of the Income-tax Act, 1961 ("the Act"). The application was examined by the Commissioner of Income-tax (Exemptions), Ahmedabad. During the course of examination, the CIT (Exemptions)

noticed that the assessee's earlier application for registration under section 12A/12AB of the Act had already been rejected vide order dated 29.09.2024. The CIT (Exemptions) further observed that, as on the date of consideration of the application under section 80G of the Act, the assessee did not hold any valid registration under section 12A or section 12AB of the Act, either in Form No. 10AC or Form No. 10AD.

5. On this basis, the CIT (Exemptions) held that registration under section 12A/12AB is a mandatory pre-condition for grant of approval under section 80G of the Act. The CIT (Exemptions) placed reliance on the judgment of the Hon'ble Gujarat High Court in the case of *CIT (Exemptions) v. Shree Tapeshwar Hanumanji Bajrang Charity Trust*, reported in 122 taxmann.com 98, wherein it was held that in the absence of valid registration under section 12A of the Act, approval under section 80G cannot be granted. Applying the said legal position, the CIT (Exemptions) held that since the assessee did not possess valid registration under section 12A/12AB of the Act, the application filed in Form No. 10AB under section 80G(5)(iii) of the Act was not maintainable. Accordingly, the application was rejected.

6. The assessee is in appeal before us against the order passed by the Commissioner of Income Tax (Exemptions) dismissing the application of the assessee.

7. Before us, the ld. counsel for the assessee submitted that the issue raised in the present appeal is squarely covered by the earlier decision of the Tribunal in the assessee's own case. The ld. counsel for the assessee submitted that that the Hon'ble Tribunal, Ahmedabad Bench, in ITA No. 1799/Ahd/2024, vide order dated 16.05.2025, had already restored the

matter relating to registration under section 12AB to the file of the Commissioner of Income Tax (Exemptions) for de-novo consideration. It was submitted that since approval under section 80G of the Act is consequential and dependent upon the grant of registration under section 12A/12AB of the Act, the rejection of the present application under section 80G of the Act, which is founded solely on the absence of registration under section 12AB, cannot survive independently. The ld. counsel therefore submitted that that, in the interest of justice and to maintain judicial consistency, the present matter may also be restored to the file of the Commissioner of Income Tax (Exemptions) for fresh consideration after adjudication of the issue of registration under section 12AB of the Act.

8. We have heard the rival submissions and perused the material available on record. We find that the application filed by the assessee under section 80G(5)(iii) has been rejected solely on the ground that the assessee did not possess valid registration under section 12A/12AB of the Act. At the same time, it is an undisputed position that the issue relating to grant of registration under section 12AB in the case of the assessee has already been examined by the Tribunal in ITA No. 1799/Ahd/2024, and the matter has been restored to the file of the Commissioner of Income Tax (Exemptions) for de-novo consideration.

9. In this regard, it is relevant to reproduce the operative findings of the Tribunal from its order dated 16.05.2025, wherein it has been held as under:

“It is pertinent to note that the appellant trust filing the amended objects as an additional evidence before the Tribunal along with the letter to the Charity Commissioner, which needs to be verified. Hence, the matter is remanded back to the file of the CIT(E) for proper verification and adjudication of the issues on merit

- 5 -

as per Income Tax Act. The appellant trust be given opportunity of hearing by following principles of natural justice.”

.....

“In the result, the appeal of the assessee is partly allowed for statistical purposes.”

10. In view of the above categorical directions of the Tribunal in the assessee’s own case, we are of the considered view that the rejection of the application under section 80G of the Act, which is consequential to and dependent upon the outcome of proceedings under section 12AB of the Act, cannot be sustained at this stage. Once the matter relating to registration under section 12AB of the Act itself has been restored for fresh adjudication, the application for approval under section 80G of the Act also requires reconsideration thereafter in accordance with law.

11. Accordingly, in the interest of justice, we set aside the impugned order passed by the Commissioner of Income Tax (Exemptions) and restore the matter to his file for de-novo consideration. The Commissioner of Income Tax (Exemptions) shall decide the application under section 80G of the Act afresh after adjudicating the issue of registration under section 12AB of the Act and after affording due and reasonable opportunity of being heard to the assessee.

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

This Order pronounced in Open Court on	26/02/2026
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 26/02/2026
TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad