

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.171/SRT/2025

Assessment Year: (2024-25)

(Hybrid Hearing)

Dharti Ekta Charitable Trust, At & Post – Haripur, Tal – Uchchhal, Dist – Tapi, Tapi – 394375, Gujarat	Vs.	CIT (Exemption), Ahmedabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAETD5352L		
(Appellant)		(Respondent)

Appellant by	Shri Esmayeel Saherwala, CA
Respondent by	Shri Ravinder Sindhu, CIT-DR
Date of Hearing	17/07/2025
Date of Pronouncement	21/07/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH:

This appeal by assessee emanates from the order dated 17.12.2024, passed by the Commissioner of Income-tax (Exemption), Ahmedabad [in short, 'CIT(E)'], wherein the CIT(E) rejected the application filed in Form No.10AB for approval u/s 80G(5)(iii) of the Income-tax Act (in short, 'the Act').

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

“(1) On the facts and in the circumstances of the case and in law, the Ld. CIT, EXEMPTION, AHMEDABAD has erred in overlooking entire online submission dated 17/12/2024 filed towards SCN and issuing a premeditated order declining application for the approval u/s. 80G(5) of the Act.

(2) On the facts and in the circumstances of the case and in law, the Ld. CIT, EXEMPTION, AHMEDABAD has erred in concluding that the objects of the trust are in religious nature and thereby declining approval u/s.80G(5) of the Act.

(3) The Appellant reserves the right to add, amend, replace or delete any grounds of appeal on or before conclusion of the appeal.

(4) The Appellant prays to set aside the order of Ld. CIT, EXEMPTION, AHMEDABAD declining approval u/s.80G(5) of the Act.”

3. Brief facts of the case are that the assessee filed application in Form No.10AB under sub-clause (B) of clause (iii) of first proviso to sub-section (5) of section 80G of the Act. The CIT(E) had issued notices of hearing on 17.09.2024 and 25.11.2024. He has discussed legal background of Rule 11AA(1), 11AA(2) along with section 80G(5) of the Act. He noted that the date of application for registration for approval in Form No.10AB was 28.06.2024 and the date of provisional approval was 29.01.2024 for the period from AY.2024-25 to 2026-27. Thereafter, the CIT(E) examined the objects of the trust, which is at page 8 of the order and held that the objects of the trust are religious in nature and not only charitable in nature as per section 80G(5) of the Act. In response to the show cause notice dated 25.11.2024, the appellant had neither filed any submission nor sought any adjournment. Hence, the application was decided based on material available on record. The CIT(E) observed that Object of the trust was religious in nature involving “religious functions”, which clearly contravenes main conditions u/s 80G(5) of the Act. He referred the provisions of section 80G of the Act and held that appellant was not established only for charitable purposes and there should not be transfer or application of funds for any purposes other than a charitable purpose, subject to concession granted u/s 80G(5) of the Act. The CIT(E) relied on the decisions of various Tribunals in cases of (i) Yug Chetna Parmarth Trust, 44 taxmann.com 446 (Agra – Trib.) and (ii) OM Tapovan Charitable Trust vs. CIT(E), ITA No.175/Ahd/2023

(Ahd – Trib.). He discussed the provisions of section 2(15), 80G(5) and 80G(5B) and 80G(5)(ii) of the Act and referred the decision of Hon'ble Supreme Court in case of Director of Secondary Education vs. Pushpendra Kumar, AIR 1998 SC 2230. It was observed that the appellant had violated existing main condition of sub-section (5) of section 80G, being a religious-cum-charitable trust and violated the conditions of section 80G(5)(ii) of the Act. Hence, the appellant was not entitled to get approval u/s 80G(5) of the Act. Therefore, application in Form No.10AB for approval under clause (iii) of first proviso to section 80G(5) of the Act was rejected and he also cancelled the provisional registration granted earlier.

4. Aggrieved by the order of CIT(E), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee filed a written submission containing 93 pages, which includes order of registration u/s 12AB in Form No.10AD, application u/s 80G(5)(iii) in Form No.10AB and its acknowledgement and copy of trust deed in English translation. He also submitted that the documents were also provided before the CIT(E). The Id. AR further contended that the word of "religious" of object clause No.4 has been deleted by conducting an extraordinary general meeting of its members. He also submitted that assessee-trust had filed reply on 17.12.2024, but CIT(E) passed order on the same day, i.e., 17.12.2024 without going through the submission of the appellant-trust. Therefore, Id. AR requested that one more

opportunity may be granted to the assessee to plead his case before the CIT(E) in the interests of justice and fair play.

5. On the other hand, learned Commissioner of Income-tax – Departmental Representative (Id. CIT-DR) for the revenue did not have any objection if the matter is remitted to the file of the CIT(E) for fresh adjudication.

6. We have heard both the parties and perused the materials available on record. We note that assessee-trust could not plead its case before the CIT(E) by submitting explanation and other details/documents as requisitioned by the CIT(E). Before us, Id. AR submitted that the CIT(E) issued only two notices on 17.09.2024 and 25.11.2024. The assessee filed its detailed submission on 17.12.2024 before the CIT(E), however, on the very same day, the CIT(E) passed an ex parte order without considering the submission of the assessee made before him. Considering all these facts, we are of the view that one more opportunity should be given to the assessee to plead its case before the CIT(E). It is settled law that principles of natural justice require that the affected party is granted sufficient opportunity of being heard to present his case. Therefore, without delving deeper into the merits of the case, in the interests of justice, we restore the matter to the file of CIT(E) for fresh adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee. The assessee is directed to furnish its submission and the relevant

details/documents before the CIT(E). For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 21/07/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat
दिनांक/ Date: 21/07/2025
SAMANTA

Copy of the Order forwarded to:

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

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat