

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, E: NEW DELHI**

**BEFORE SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.- 7551/Del/2025
[Assessment Year: NA]**

Shri 108 Gupti Sagar Dham Jain Trust, GT Road, Gannaur, Sonipat, Haryana 131101, Sonipat, Haryana-131101.	Vs	CIT (Exemption), Room No.-1, 5 th Floor, C.R. Building Himalaya Marg, Sector- 17E, Chandigarh 160017.
PAN: AASTS6150P		
Assessee		Revenue

Assessee by	Shri Subodh Jain, Adv. and Shri Samyak Jain, CA
Revenue by	Ms. Nimisha Singh, CIT(DR)

Date of Hearing	24.03.2026
Date of Pronouncement	26.05.2026

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is against the order of Commissioner of Income Tax (Exemption) [hereinafter referred to as the 'Ld. CIT(E)] order dated 23.09.2025 rejecting the approval u/s 80G(5)(iv)(B) of the Act.

2. Brief facts of the case: An application for approval u/s 80G(5) (iv) (B) of the Act was filed by the applicant on 31.03.2025. In order to examine and verify the

objects of the trust or the institution, the genuineness of its activities and fulfilment of all the conditions laid down in clauses (i) to (v) of section 80G(5) of the Act, a questionnaire was issued electronically on 17.04.2025 by the Ld. CIT(E) requesting the applicant to furnish the documents/details online through e-proceedings on e-filing portal along with the supporting documents/evidence, point wise in the sequence by 02.05.2025.

2.1 In response to the notice dated 17.04.2025, the applicant submitted the reply on 22.05.2025. On perusal of the reply submitted by the applicant, it was noticed by the Ld. CIT(E) that the trust was carrying out religious activities and reproduced the relevant portion of the reply as under:

12. The trust is established for religious-cum-charitable purpose.

13. Not Applicable.

14. A chart showing the details of charitable activities done by the assessee along with the expenditure incurred is as below:

S. No.	Particulars of Charitable Activities	Expenditure incurred (in Rs.)	Detail of Payments
1.	Distribution of Religious Books	18,500	Cash
2.	Charitable Camp	3,02,300	Cash

15. Copies of bank account statement of the assessee society for the FY 2023-24 and 2024-25 are enclosed herewith as Annexure-7.

16. Yes, the trust is carrying out religious activities.

2.2 Moreover, the Ld. CIT(E) noted that the objects of the society explicitly mention developing/constructing a Mandir Building which was a purely religious activity. The relevant extract from the society submitted by the applicant was reproduced here under:

“THE OBJECTS FOR WHICH THIS TRUST IS ESTABLISHED ARE:

(a) To erect a Jain Temple for the worship of Jain Deity and to do all other Things necessary and conducive to the attainment of the said object.”

2.3 Prior to this, the Ld. CIT(E) also noted that the assessee in its reply at Sr. No. 16 had submitted as under:

“16. Yes, the trust carrying out religious activities.”

2.4 In view of the above facts, the Ld. CIT(E) noted that the society was engaged in performing activities which were religious in nature and these could not be considered as charitable purpose as per the provisions of section 80G(5) of the Act. Thereafter, the Ld. CIT(E) relying upon the decision of the Hon'ble Apex Court in the case of Upper Ganges Sugar Mills Ltd. v. Commissioner of Income Tax [1997] 93 Taxman 645 (SC) and after quoting the provisions of section 80G of the Act rejected the application of the assessee by holding that the assessee was clearly engaged in religious activities which cannot be considered to be for charitable purposes as per the provisions of section 80G(5) of the Act. The relevant extract of the order is reproduced as under:

“ 5.1 It is pertinent to refer to the relevant provisions of section 80G of the Income-tax, 1961 here. Section 80G reads as under:

“(5) This section applies to donations to any institution or fund referred to in sub-clause (iv) of clause (a) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely –

:
:

“(iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste,”

5.2 *An explanation to the above section has been inserted by the Finance Act, 1994, w. e. f. 1-4-1994 which reads as under-*

"Explanation 3-In this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature."

The above said Explanation 3 to Section 80G of the Act clearly states that for the purpose of Section 80G, "charitable purpose" does not include a purpose, the whole or substantially the whole of which is of religious nature. Hence, as per the above Explanation, for this section, a trust cannot be said to be established for charitable purposes if it includes any purpose/object, the whole or substantially the whole of which is of religious nature. It is not necessary that the trust be established only for religious purposes but even if one object of the trust is wholly or substantially of religious nature, then the trust cannot be said to be established for charitable purposes. The same has been upheld by the Hon'ble Apex Court in the case of Upper Ganges Sugar Mills Ltd. v. Commissioner of Income Tax [1997] 93 Taxman 645 (SC). The Hon'ble Supreme Court while clearly covering the above said argument held as under:

"The High Court rejected the assessee's argument that trust was not set up wholly or substantially for a religious purpose; one of the purposes, it said, was to establish, maintain and grant aid to public places of worship and prayer halls', which was an entirely religious purpose.

8. Section 80G applies to donations to any institution or fund established in India for a charitable purpose' Charitable purpose, for the purposes of the section, does not include any purpose the whole or substantially the whole of which is of a religious nature' [Emphasis supplied] Explanation 3, which uses this phraseology, takes note of the fact that an institution or fund established for a charitable purpose may have a number of objects. If any one of these objects is wholly, or substantially wholly, of a religious character, the institution or fund falls outside the scope of section 80G and a donation to it does not secure the advantage of the deduction that it gives."

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. .*

10. To reiterate, 'Explanation 3 does not require the ascertainment of whether the whole or substantially the whole of the institution or fund's charitable purpose is of a religious nature. If it did, it would read differently. It requires the ascertainment of whether there is one purpose within the institution wholly, of a religious nature."

5.3 *The Hon'ble Supreme Court rejected the assessee's plea in the above-mentioned case since one of the many objects of the institution was of religious nature. Hence, it is a well-established position that Explanation 3 does not point towards the trust being wholly or substantially of religious nature but even if one of the purposes of the trust is wholly or substantially of religious nature, section 80G(5) can't be granted.*

6. *In view of the above discussions, the present application of the applicant filed in Form 10AB u/s 80G(5)(iv) (B) of the Act is rejected as applicant is clearly engaged in religious activities which cannot be considered to be for charitable purposes as per the provisions of section 80G(5) of the Income-tax Act. Accordingly, the application filed by the applicant for approval u/s 80G of the Act is hereby disposed of as rejected, which rejection and consequent lack of approval shall supersede any approval granted u/s 80G of the Act by any authority at any earlier time.”*

3. Aggrieved with the said order, the assessee filed an appeal before us on the following grounds of appeal:

“1. That the Ld. CIT (Exemptions) erred on facts and in law in rejecting the application for final registration of the appellant u/s 80G(5)(iv)(B) of the Act.

2. That the Ld. CIT (Exemptions) erred on facts and in law in passing the rejection order in Form 10AD merely on the ground that the appellant is a religious trust and not a charitable trust.

3. The appellant craves leave to add, alter, amend or withdraw any ground or grounds of appeal at any time before or during the course of hearing of the appeal.”

4. At the time of hearing, the Ld. AR submitted that as per the objects of the Trust (placed at page no. 27-32 of the Paper Book), the Trust was running institutions for the benefit and use of the general public and it was not discriminatory towards any section of the society. The Ld. AR further submitted during the year, it had incurred expenditure of Rs. 18,500/- towards Distribution of Religion books and Rs. 3,02,300/- on charitable camp and was not hit by the provision of section 80G(5B) of the Act. The Ld. AR also relied upon the order of the Ahmedabad Bench of the Tribunal in the case of Jayshree Gopallalji Haveli Charitable Trust-Ujalvav vs. Commissioner of Income Tax (Exemption) [2025]179 taxmann.com 679

(Ahmedabad- Trib.), which had considered the Upper Ganges Sugar Mills Ltd. v. Commissioner of Income Tax (supra) but had remanded the matter to the file for the Ld. CIT(E) to examine with a direction to verify and record a categorical finding as to whether the assessee had incurred expenditure exceeding five percent of its total income on religious purposes within the meaning of section 80G(5B) of the Act and thereafter decide the assessee's application for approval under section 80G(5) afresh on merits in accordance with law after providing due opportunity of hearing to the assessee.

5. On the other hand, the Ld. CIT(DR) supported the order of the Ld. CIT(E).

6. We have heard both the parties and perused the material available on record.

A new sub-section has been inserted in section 80G by Finance Act, 1999 w.e.f.

01.04.2000 subsequent to the order passed in the case of Upper Ganges Sugar Mills

Ltd. v. Commissioner of Income Tax (supra) which reads as under:

“80G (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.”

6.1 Thus, it is seen that 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 and the assessee will be entitled

for grant of approval u/s 80G(5) of the Act. However, on perusal of the impugned order of the Ld. CIT(E), it is seen that there are no findings by the Ld. CIT(E) to hold that the assessee had violated the above condition as laid down in section 80G(5B) of the Act. On similar facts, the Ahmedabad Bench of the Tribunal in the case of Jayshree Gopallalji Haveli Charitable Trust-Ujalvav vs. Commissioner of Income Tax (Exemption) (supra) held as under:

*“6. We have heard the rival contentions and perused the material available on record. The undisputed facts are that the assessee filed an application in Form No. 10AB seeking approval under clause (iii) of the first proviso to section 80G(5) of the Act. The learned Commissioner of Income-tax (Exemptions), Ahmedabad, rejected the said application primarily on the ground that certain objects of the trust deed were of a religious nature and, therefore, the trust was not established wholly for charitable purposes as required under section 80G(5) of the Act. We find merit in the submissions made by the learned counsel for the assessee that the mere presence of an object having spiritual or cultural undertones does not, by itself, render a trust religious in nature, especially when the predominant purpose and actual activities are charitable. We further observe that section 80G(5B) of the the Act permits an institution established for charitable purposes to incur expenditure up to five percent of its total income on religious purposes. Thus, the statutory framework itself recognizes that minor or incidental religious expenditure does not vitiate the charitable character of the institution. The determining factor, therefore, is not the mere existence of religiously worded objects in the trust deed but whether the assessee has actually expended more than the permissible five percent of its total income on religious purposes. In this regard, we find guidance from the coordinate bench decisions of the Ahmedabad Tribunal in *Shree Smasta Gurjar Kshatriya Kadiya Samaj Navsari v. CIT (Exemptions) [2025] 174 taxmann.com 1117 (Ahmedabad - Trib.) [26-05-2025]*, wherein it was held that before rejecting an application for approval under section 80G on the ground that certain activities are religious, the Commissioner (Exemptions) must first examine whether the assessee has breached the five percent threshold prescribed under section 80G(5B). In the absence of such verification, the matter deserves to be remanded for fresh consideration. Similarly, in *Prayatna Charitable Trust v. CIT (Exemptions) [2025] 178 taxmann.com 434 (Ahmedabad - Trib.) [16-09-2025]*, the Tribunal held that where the Commissioner (Exemptions) rejected registration under section 80G on the ground that an object was religious in nature, but the assessee explained that the object was actually intended to promote moral and educational values rather than ritualistic practices, the matter should be remanded back for proper re-examination after affording opportunity of being heard. Further, in *Shree Vardhman Samaj Utkarsh Fund v. CIT**

(Exemptions) [2025] 178 taxmann.com 595 (Ahmedabad - Trib.) [23-092025], ITAT categorically held that unless the Commissioner (Exemptions) verifies and records a finding that the assessee has in fact incurred religious expenditure exceeding the five percent limit under section 80G(5B), approval under section 80G cannot be denied merely because the objects appear to be community-specific or culturally oriented. In the present case, the learned CIT (Exemptions) has not carried out any examination or given any categorical finding regarding the applicability of section 80G(5B) or whether the assessee's expenditure on religious activities exceeded the permissible threshold. The rejection of the application merely on the basis of certain textual references in the trust deed, without such verification, is not sustainable in law.

7. In view of the above legal position and consistent judicial precedents, we deem it appropriate to set aside the impugned order passed by the learned CIT (Exemptions), Ahmedabad. The matter is restored to the file of the learned CIT (Exemptions) with a direction to verify and record a categorical finding as to whether the assessee has incurred expenditure exceeding five percent of its total income on religious purposes within the meaning of section 80G(5B) of the Act and thereafter decide the assessee's application for approval under section 80G(5) afresh on merits in accordance with law after providing due opportunity of hearing to the assessee.

*8. In the result, the appeal of the assessee is allowed for statistical purposes.”
(emphasis supplied by us)*

6.2 In this case also, the Ld. CIT(E) has not given any finding that as to whether the assessee has incurred expenditure exceeding five percent of its total income on religious purposes within the meaning of section 80G(5B) of the Act. Following the above order, in view of the above legal position and consistent judicial precedents, we deem it appropriate to set aside the impugned order passed by the Ld. CIT (Exemptions), Chandigarh, and restore the matter to the file of the Ld. CIT (Exemptions) with a direction to verify and record a categorical finding as to whether the assessee has incurred expenditure exceeding five percent of its total income on religious purposes within the meaning of section 80G(5B) of the Act and thereafter decide the assessee's application for approval under section 80G(5) afresh on merits

in accordance with law after providing due opportunity of hearing to the assessee.

Grounds of appeal filed by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 26th May 2026.

Sd/-
[RAJ KUMAR CHAUHAN]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated- 26.05.2026.

Pooja.

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,