



IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "B" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And  
Shri Narendra Prasad Sinha, Accountant Member**

**ITA No: 1107/Ahd/2025**

Shri Jain Swetamber Terapanthi Sabha Trust Uttar Ahmedabad A-304, Thi Shbha Trust Sampad Woods, Near Sangath Nano Koteshwar Motera, Ahmedabad-380005 <b>PAN: ABITS3926N (Appellant)</b>	Vs	CIT (Exemption), Ahmedabad  <b>(Respondent)</b>
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**Assessee Represented: Shri Tushar Hemani, Sr. Adv &  
Shri Kushal Fofaria, A.R.  
Revenue Represented: Shri R.P. Rastogi, CIT-DR**

Date of hearing : 19-01-2026  
Date of pronouncement : 21-01-2026

**आदेश/ORDER**

**PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

This appeal is filed by the Assessee as against order dated 30.03.2025 passed by the Commissioner of Income Tax (Exemption), Ahmedabad denying registration under section 80G(5) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on the ground that the activities of the Trust are religious in nature.

2. Brief facts of the case is that the assessee is a Trust registered under section 12AB of the Act and granted registration under the new provision of the Act by the Ld. CIT(E) vide order dated 28-01-2025 for religious cum charitable purpose. The assessee filed application for registration under section 80G(5) on the Act on 27-08-2024. A show cause notice dated 28-01-2025 was issued by Ld. CIT(E) that the main objects of the Trust are in the field of religion and why registration under section 80G(5) should not be rejected. The assessee filed a detailed reply on 03-02-2025 that the assessee Trust has not incurred any religious expenditure in the past years which are evidenced from the Audit Reports and Financial Statements of the Trust. Thus when the primary objects of the Trust are charitable in nature, registration cannot be denied by considering the ancillary or incidental objects of the Trust. Further it is settled law that registration u/s. 80G(5) cannot be denied merely for having religious objects, unless the religious expenditure exceeds the threshold limit of 5% as prescribed u/s. 80G(5B) of the Act. Reliance also placed on the following case laws:

- ▶ Shree Loheshwar Mahadev Trust v. CIT(E) – ITA No. 472/Ahd/2025
- ▶ Gurukrupa Foundation Trust v. CIT(E) [2025] 172 taxmann.com 737 (Ahmedabad - Trib.)
- ▶ Vaishnav Sangh v. CIT(E) [2025] 176 taxmann.com 487 (Ahmedabad - Trib.)
- ▶ Sthanakvasi Jain Sangh Jivrajpark v. CIT(E) [2025] 179 taxmann.com 218 (Ahmedabad - Trib.)
- ▶ Discover Joy Foundation v. CIT(E) [2025] 176 taxmann.com 447 (Ahmedabad - Trib.)

- ▶ Shree Vardhman Samaj Utkarsh Fund v. CIT(E) [2025] 178 taxmann.com 595 (Ahmedabad - Trib.)
- ▶ Shree Smasta Gurjar Kshatriya Kadiya Samaj Navsari v. CIT(E) - [2025] 174 taxmann.com 117 (Ahmedabad - Trib.)
- ▶ Rajjee Foundation v. CIT(E) [2025] 177 taxmann.com 588 (Ahmedabad - Trib.)
- ▶ Jayshree Gopallaji Haveli Charitable Trust Ujalav v. CIT(E) – [2025] 179 taxmann.com 679 (Ahmedabad - Trib.)
- ▶ Shree Sattavis Kadva Patidar Pragati Mandal v. CIT(E) – ITA No. 414/Ahd/2023

3. Ld. CIT(E) has selectively read the word “Jain” and denied the registration without considering the main objects of the Trust which are charitable in nature and not for the benefit of any particular community, caste or creed.

4. Aggrieved against the rejection order, the assessee is in appeal before us raising the following Grounds of Appeal:

- 1. The Ld. CIT(E) has erred in law and on facts of the case in rejecting the application of for approval of trust under section 80G (5) of the Act.*
- 2, The Ld. CIT(E) has erred in law and on facts of the case in rejecting application to grant approval u/s 80-G of the Act without appreciating that the appellant stands registered as a Charitable Institution under Section 12A of the Act.*
- 3. The Ld. CIT(E) has erred in law and on facts in not appreciating that no expenditure had been incurred of religious nature.*
- 4. The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

5. Ld. Counsel appearing for the assessee submitted before us copy of the Audit Report and Financial Statement clearly showing that there is no expenditure incurred by the assessee Trust towards the

religious activities which is at Page No. 38 of the Paper Book namely the Profit and Loss account. Similarly for the earlier years, there were no expenditure incurred by the assessee towards religious activities. Further Ld. CIT(E) while granting registration u/s. 12AB of the Act has granted registration to the assessee Trust both for Religious cum Charitable activities vide his order dated 28-01-2025. Thus the Ld. CIT(E) is not correct in denying registration u/s. 80G(5) of the Act.

6. Per contra Ld. CIT-DR appearing for the Revenue supported the order passed by Ld. CIT(E) and requested to uphold the same.

7. We have given our thoughtful consideration and perused the materials available on record. It is seen that the Trust was created on 01-06-2023 with mixed objects of Charitable and Religious purposes (as per English Translation Trust Deed filed in the Paper Book). The Objects does not limit to any caste, creed or religion but to the General Public at Large. Therefore registration u/s. 80G(5) cannot be denied merely for having religious objects unless religious expenditure exceeds the threshold limit of 5% as prescribed u/s. 80G(5B) of the Act.

7.1. It would be useful to reproduce Explanation 3 to Section 80G(5) for reference 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."*

7.2. A plain reading of Explanation 3 suggests that the term "charitable purpose" does not include any purpose, the "whole or substantially the whole of which is of a religious nature. This

implies that some part of the activities of a trust are permitted to be of a religious nature.

7.3. It would be further useful to reproduce sub-section (5B) to Section 80G of the Act for ready reference-

*"(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."*

7.4. Sub-Section (5B) of Section 80G provides that an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding 5% 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. Further, notably sub-Section 5B starts with the words "Notwithstanding anything contained in Clause (ii) of sub-Section (5) and Explanation 3. Therefore, on plain reading of sub-Section (5B) to Section 80G, it is evident that if any institution or fund incurs any expenditure which is of a religious nature for an amount not exceeding 5% 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. In the instant facts, we observe that Ld. CIT(E) has relied upon only religious objects of the Trust but has not made any specific observations as to whether less than 5% of the total income has been spent by the assessee Trust towards religious purposes.

7.5. Further in the present case, Ld. CIT(E) himself granted registration u/s. 12AB of the Act to the assessee Trust vide order dated 28-01-2025 both for Religious and Charitable activities.

Therefore in the Interest of Justice, we deem it proper to set-aside the matter to the file of Ld. CIT(E) with a direction to give one more opportunity of hearing to the assessee Trust, whether it incurred any religious expenses in this or other years. Ld. CIT(E) should examine the issue and give categorical finding on the applicability of provisions of Section 80G(5B) of the Act or otherwise and pass order in accordance with the provisions of law.

8. In the result, the appeal filed by the Assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 21 -01-2026

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 21/01/2026**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद