

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

**BEFORE: SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND  
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 34/Ahd/2025  
(निधारण वर्ष / Assessment Year : NA)

<b>Shri Rajesh Ravindran Charity Trust</b> B-37, Shantikunj Society, Nr. Arpan School, D-Cabin, Ahmedabad – 380019	<b>बनाम/</b> Vs.	<b>CIT(Exemption)</b> Room No.609, 6 <sup>th</sup> Floor, Aaykar Bhavan, Nr. Sachin Tower, Vejalpur, Ahmedabad - 380015
Öथायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABDTS1989 A		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

अपीलाथक ओर से /Appellant by :	Shri S. N. Divatia & Shri Samir Vora, A.Rs.
निधायक ओर से /Respondent by :	Shri Prathvi Raj Meena, CIT.DR

<b>Date of Hearing</b>	08/10/2025
<b>Date of Pronouncement</b>	05/01/2026

**(आदेश)/ORDER**

**PER ANNAPURNA GUPTA, AM:**

The present appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Exemption), Ahmedabad (hereinafter referred to as “CIT(E)”), dated 27.12.2024, denying approval under Section 80G of the Income Tax Act, 1961 (hereinafter referred to as the “Act”).

2. The order of the Ld. CIT(E) reveals that the approval was denied noting that the assessee was not a purely charitable trust and had, therefore, violated the main condition of sub-section (5) of Section 80G of the Act. The Ld. CIT(E) found the assessee to be not charitable reading Object No. (Y) in the Instrument of creation of the assessee trust as being religious in nature and the assessee trust, therefore, falling under the category of composite trust i.e. religious-cum-charitable. Object No. (Y) of the Trust is reproduced at page 15 para 8 of the Ld. CIT(E)'s order and reads as under:

*“(Y) To arrange and organize religious, social and cultural program from time to time”*

3. When confronted with the same, the assessee had submitted to the Ld. CIT(E) that all its objects were charitable in nature for the benefit of the public at large without any discrimination on the ground of religion, race, caste etc. and did not involve the furtherance of any religious activity. The submissions of the assessee in this regard are reproduced at para 7.2 of the order. The assessee also contended that de hors its submissions regarding none of its object being religious in character, the assessee had not spent any amount on religious activities during the impugned year and, therefore, in terms of the provisions of Section 80G(5B) of the Act also, the assessee trust could not be categorized as being religious in nature so as to deny grant of approval u/s.80G(5) of

the Act. The Ld. CIT(E), however, rejected all the submissions made by the assessee and held that being a composite trust, it had violated the provisions of Section 80G(5)(ii) of the Act and, therefore, was not eligible for approval u/s.8G(5) of the Act. The Ld. CIT(E) held that the provisions of Section 80G(5B) of the Act could not be read as approving composite trust for grant of approval u/s.80G(5) of the Act subject to a limit specified for expending on religious activities i.e. 5% of the total income of the assessee. The contention of the Ld. CIT(E) was that primary condition for grant of approval was that the trust should be purely charitable in character and if such trust was found to incur any expenses on religious activities, the amount of such expenditure should not exceed limit specified in the said Section. Interpreting the law as above, he denied the assessee's grant of approval u/s.80G(5) of the Act.

4. We have heard both the parties. We are not in agreement with the reasoning of the Ld. CIT(E) that a composite trust is disqualified from grant of approval u/s. 80G(5) of the Act. That Section 80G(5) of the Act is not to be read alongwith Section 80G(5)(ii) of the Act and that grant of approval u/s 80G(5) is applicable only to charitable trust and not composite trust. The reason being that on identical issue the ITAT in a series of decisions has interpreted the law and held categorically that the law permits the existence of composite trust subject to the

expenditure on religious activity being limited to the extent specified in Section 80G(5B) of the Act. The ITAT interpreted the provisions of Section 80G, 80G(5)(ii), Explanation (3) to Section 80G(5) and Section 80G(5B) of the Act by holding so in a recent decision in the case of Shree Sthanakvasi Jain Sangh Jivrajpark vs. CIT(E) in ITA No. 372/Ahd/2025, dated 08.10.2025. The relevant portion of the order reads as under:

*“6. We have considered the contentions of both the parties and have gone through the order of the Ld. CIT(E) and also the decisions relied upon by the Ld. Counsel for the assessee before us. Undeniably, the approval sought by the assessee u/s.80G(5) of the Act has been denied by the Ld. CIT(E) noting the assessee to be a fund/institution established for religious purpose and not for charitable purposes and also noting the assessee to have expended for religious activities more than the limits specified u/s.80G(5B) of the Act so as to treat it as religious fund/institution and not a charitable fund/institution. Thus, as per the Ld. CIT(E), approval u/s.80G(5) of the Act is to be granted only to the fund/institution established for charitable purposes and the assessee has been noted to have violated the said condition on two counts:*

- i. Its objects have been found to be religious in nature; &*
- ii. It has been found to have violated the conditions of 80G(5B) of the Act by expending more than the limit specified under the said Section for religious purposes.*

*7. It is relevant to consider the provisions of Section 80G(5) of the Act which are pertinent for adjudicating the issue before us.*

*8. Section 80G of the Act provides for deduction of donations made to certain Funds/Institutions while computing taxable incomes. Sub section (5) of the said section prescribes certain conditions to be fulfilled by funds/institutions for donations made to them being eligible for deduction under the section. The basic requirement is of the fund/ institution being established “ **for a charitable purpose**” .*

*“Deduction in respect of donations to certain funds, charitable institutions, etc.*

*80G. ....*

*.....*

*(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.**”*

9. *Besides being established for a charitable purpose, the fund or institution is also required to fulfill certain other conditions one of which, pertinent to the issue of religious character of the trust, is specified in Sub-clause (ii) which says that the objects of the Trust should not provide for the application of any of its income for purpose other than a charitable purpose. The relevant sub-clause (ii) reads as under:*

*“(ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;”*

10. *The main Section 80G(5) and Sub-clause (ii) of the said Section repeatedly use the word “charitable purpose”. The same has been explained in Explanation (3) to the Section to not include any purpose the whole or substantially the whole of which is of a religious nature:*

*“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.”*

11. *In effect, reading Section 80G(5) of the Act and Sub-clause (ii) thereof alongwith Explanation (3) to the Section, it is clear that institutions or funds with purposes which are religious in nature are excluded from availing the benefit of Section 80G of the Act.*

12. *Sub-section (5B) to Section 80G further provides that notwithstanding anything contained in Clause (ii) of sub-section (5) and Explanation (3) to the Section if expenditure incurred of religious nature does not exceed 5% of the total income of the trust or fund, the Institution or fund shall not be deemed to be of a religious character but it will be deemed to be of a charitable character, entitled to claim benefit u/s.80G of the Act. Sub-Section (5B) reads as under:*

*“(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.”*

13. *Reading Section 80G(5)(ii) with Explanation (3) thereto and 80G(5B) of the Act, it is clear that even composite trusts with objects having religious character are eligible to benefits of Section 80G of the Act subject to the expenses incurred on the religious purposes being minimal, i.e. not exceeding 5% of their total income. Meaning thereby that whether the activities of fund or trust are primarily found to be undertaken for charitable purpose and only a very small / minimal component of the activities being carried out is for religious purposes, then such funds or trust are to be treated as of charitable nature eligible for benefits provided u/s.80G of the Act. This is exactly how the ITAT, Rajkot Bench in the case of Jay Mataji Charitable Trust vs. CIT(E) in ITA No.116/Rjt/2023, dated 23.02.2024 interpreted the provisions of the Section holding at para 7 to 10.1 of its order as under:*

*“7. We have heard the rival contentions and perused the material on record.*

*8. 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.”*

*9. A plain reading of Explanation 3 suggests that the termed “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.*

*10. 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.”*

*10.1 Sub-Section (5B) 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 a 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 two out of ten objects to show that the assessee is a religious trust. Further, Ld. CIT(E) has not made any specific observations as to whether less than 5% of the total income has been spent by the assessee towards religious purposes.”*

*14. The Ld. CIT(E), however, has relied on the order of the ITAT in the case of Om Tapovan Charitable Trust vs. CIT(Exemption), Ahmedabad in ITA No.175/Ahd/2023, dated 17.05.2024 to hold that even if one of the objects of the trust is religious in nature, the character of the assessee trust would be religious and not charitable and the assessee would not be entitled to the benefits of Section 80G of the Act de hors the fact that it has not expended more than 5% of its income on religious activities as provided for 80G(5B) of the Act.*

*15. We have gone through the said decision and we find that the ITAT in the said decision had held that Section 80G(5B) of the Act does not override the provisions of sub-clause (iii) of the Section. The ITAT in the said case has not held Section 80G(5B) of the Act to override the provisions of Section 80G(5)(ii) of the Act, which has been interpreted above by us. The ITAT has referred Clause (iii) to Section 80G(5) of the Act reads as under:*

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

*The said sub-clause states that a fund institution established for charitable purposes should not be expressed to be for the benefit of any particular religious community or caste to be eligible for benefits provided u/s.80G of the Act. Sub-clause (iii) does not refer to the religious nature of the activity carried out by the trust or institution but it deals with trust or institution catering to the benefit of a particular religious caste or community. The two are totally distinct things. Therefore, in the case of Om Tapovan Charitable Trust (supra), the issue under consideration was completely different from that in the case before us and that adjudicated by the*

*ITAT in the case of Jay Mataji Charitable Trust (supra). The said decision therefore has no applicability to the facts of the case before us.*

*16. In the light of the above, we hold that for denying assessee's approval u/s.80G(5) of the Act for being religious in character, the mere existence of some objects being religious in nature is not crucial. A trust or a fund can be of a composite character having both charitable and religious purposes. It is only if the application of income of such fund or trust of religious purposes exceeds 5% of total income, that such trust or fund would be treated as religious in nature and not eligible to benefit u/s.80G of the Act. In the facts of the present case, the Ld.CIT(E) has categorically noted at para 8 of his order that the objects of the trust are composite in character and at the same time, he has found the expenses incurred on religious activities by the trust to have exceeded 5% of its income. Ld. Counsel for the assessee has, however, pointed out that by holding so the Ld. CIT(E) has not considered the explanation furnished by the assessee pointing out that the expenses identified by the Ld. CIT(E) as having been incurred for religious purposes were in fact charitable in character. Our attention was drawn to the submissions made by the assessee in this regard vide letter dated 29.11.2024, are reproduced hereunder:*

*“3. Your goodself has stated that as per the Audit report of FY 2022-23, the trust has made prabhavna expenses of Rs. 87,777/- and Rs. 91,525/- and transfer to swamivatsalya vahivati fund of Rs.1,01,115/- towards religious purpose out of total receipts of Rs. 19,54,171/-. In this regard we have to clarify that prabhavna expenses is done without difference of community and distributed to all people irrespective of their caste. Similar is the case of expenses of Swami vatsalaya. The exact nature of this expenses is get together and lunch expenses irrespective of caste and religion. The modus operandi is that at first passes are distributed through wide publication. The passes are taken by people from sangh for some token charges say Rs. 10 or Rs.20 and they may distribute among their friends and neighbours irrespective of their caste and religion. All people get together on fixed day and venue and they meet each other and do networking and social activities. On this, the sangh has to incur majority expenses and this expenses are debited to Swamivatsalaya vahivati and therefore it is proved beyond doubt that all these expenses are not of religious in nature. The break up of Rs.91525 is as under. Though this are stated under the head RELIGIOUS but they are not of religious in nature. This can be reflected from the break up as under:*

<i>Chaitra Mas Oli expense</i>	<i>28,258</i>
<i>Paryushan parv expense</i>	<i>3,050</i>
<i>Aasomas oli parna vahivati expense</i>	<i>2,410</i>
<i>Aasomas oli vahivati expense</i>	<i>22,878</i>

<i>Aayambil General expense</i>	210
<i>Manavrahath expense</i>	28,219
<i>Upashray Vahivati expense</i>	6500
<b>TOTAL</b>	<b>91,525</b>

*It can be seen from the above that all the above expenses are of manav rahat and lunch expenses on particular dates and that date and tithi are co related and thus expenses are named according to particular tithi but all these expenses are of lunch expenses or vahivati expenses in nature and therefore not of religious in any way.*

*4. We have properly explained in the above paras that the trust has not incurred any expenses towards religious purposes. Thus, there is no violation of the main provision of section 80G(5) and provisions of section 80G(5)(0) of the act. Therefore our application should not be rejected.*

*4.1 As desired by your goodself, expenses ledger account was already attached alongwith our application for registration as well as alongwith our reply dated 15-10-2024. However, for ready reference the said expenses ledger is attached herewith as Annexure I.”*

*Since, admittedly, the Ld. CIT(E) has not considered the explanation of the assessee pointing out that the inapplicability of Section 80G(5B) of the Act to the facts in the present case, we consider it fit to restore the issue back to the file of the Ld. CIT(E) for the limited purpose of examining and verifying the submissions made by the assessee in the light of the provisions of Section 80G(5B) of the Act and granting the assessee approval, if the expenses incurred by it are found to be not in excess of the limit specified u/s.80G(5B) of the Act.”*

In the light of the above, we hold that the Ld. CIT(E)’s order denying grant of approval on account of the assessee being a composite trust is not in accordance with law. Moreover, we have noted that the assessee pointed out as a matter of fact to the Ld. CIT(E) that it had incurred no expenditure on religious activity which fact has not been controverted in any way before us. In the light of the same, we find that the case of the assessee is squarely covered by the decision of the ITAT in the case of Shree

Sthanakvasi Jain Sangh Jivrajpark (supra) above, following which, we hold that the assessee trust is not a religious trust as per the provisions of Section 80G(5)(ii) Explanation (3) and r.w.s. 80G(5B) of the Act. Ld. CIT(E) is, therefore, directed to grant the assessee trust approval u/s.80G(5) of the Act.

5. In the result, appeal filed by the assessee is allowed.

**This Order pronounced on 05/01/2026**

Sd/-  
(SUCHITRA KAMBLE)  
**JUDICIAL MEMBER**

Ahmedabad; Dated 05/01/2026

S. K. SINHA

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अदेश का ढितिलाप अढेषित/Copy of the Order forwarded to :

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2. ढियथ ~~cb~~The Respondent.
3. संबंढित आयकर आयुN / Concerned CIT
4. आयकर आयुN(अपील) / The CIT(A)-
5. ढवभागीय ढितिनिध, आयकर अपीलीय अधकरण, अहमदाबाद / DR, ITAT, Ahmedabad
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