आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.3330/Chny/2026**

निर्धारण वर्ष / Assessment Year: **……**

Odiyathur Sri Virubaksheeswarar Vazhipattu Arakkattali, No.52, Karunalayaa, Ram Nagar, Kumarasamipatti, Salem – 636 070.	Vs.	**The Commissioner of Income Tax (Exemption),** Chennai.
[PAN: AAATO 1833B] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr. S.Bhupendran, Advocate (virtual)

प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anitha, CIT

सुनवाई की तारीख/Date of Hearing : 25.08.2026

घोषणा की तारीख/Date of Pronouncement : 11.11.2026

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM:

The present appeal has been preferred by the Assessee against the order dated 22.03.2026 passed by the Learned Commissioner of Income Tax (Exemptions), Chennai [hereinafter referred to as "the Ld. CIT(E)"] denying approval u/s.80G of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

2. At the outset, it is noticed that the present appeal has been instituted by the assessee with a delay of one day beyond the period prescribed under the Act. The assessee has filed an affidavit setting forth the reasons and circumstances which occasioned the delay in preferring the appeal within the stipulated time. We have carefully considered the contents of the affidavit and examined the explanation tendered by the assessee. Having regard to the facts and circumstances of the case, and being satisfied that the assessee was prevented by sufficient and reasonable cause from filing the appeal within the prescribed period, we are of the considered opinion that the delay does not appear to be deliberate, intentional or attributable to any mala fide conduct.

3. It is a settled proposition of law that, while considering an application for condonation of delay, a liberal and justice-oriented approach is required to be adopted so as to advance substantial justice, particularly when no prejudice is shown to have been caused to the opposite party. In the present case, we are satisfied that sufficient cause has been demonstrated by the assessee for the delay in filing the appeal. Accordingly, the delay of one day in filing the present appeal is condoned, and the appeal is admitted for adjudication on merits in accordance with law.

4. The brief facts of the case are that the assessee is a Trust registered u/s.12AB of the Act as a “Religious cum Charitable” trust, carrying on activities which, according to the assessee, include providing food (Annadhanam) to poor and needy persons, medical assistance and relief, educational assistance to the economically weaker sections, support to destitute and under-privileged persons and other public welfare activities, besides temple administration and the maintenance of places of worship.

The assessee filed an application dated 27.09.2025 in Form No.10AB under clause (ii) of the first proviso to s.80G(5) of the Act seeking renewal of approval u/s.80G of the Act. On perusal of the Income and Expenditure statements of the Trust for the AYs 2024-25 and 2025-26, the ld.CIT(E) noticed that the Trust had claimed expenses towards the maintenance of Bhavanam Koil and Perumal Koil, and rejected the application vide order dated 22.03.2026, holding as under:

> *"4. Decision:*
> *The application seeking approval under section 80G is rejected for the following reasons:*
>
> *4.1 Religious objects:*
> *At this juncture, it is important to go through the Income & Expenditure statement for the Asst. year 2024-25 & 2025-26. The trust has claimed Bhavanam koil maintenance & Perumal Koil maintenance as expenses.*
>
> *4.1.2 It is seen from the Income & Expenditure statement the activities are religious cum charitable in nature. Moreover, the applicant trust is registered as "Religious cum Charitable" trust. As discussed above, the activities of the trust are religious cum charitable in nature which is in ultra vires to the provisions of section 80G of the Income Tax Act. It is relevant to mention the provisions/explanation of section 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 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;*
> *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.*
>
> *4.1.3 As per the provisions of section 80G (5), any institution or fund established in India for a Charitable purpose will be granted approval under the section 80G. The trusts established for the purpose of "Religious" or "Religious cum Charitable" are not eligible for getting approval u/s,80G (5) of the Act.*

5. Therefore, the application dated 27/09/2025 filed in Form No. 10AB clause (ii) of first proviso to section 80G(5) of the Act seeking approval u/s. 80G is rejected for the reasons stated above."

5. Aggrieved by the order of the ld.CIT(E), the assessee is in appeal before us by raising the following grounds of appeal:-

"1] The order of the CIT (Exemption), Chennai dated 22.03.2026 in DIN & the NOTICE.NO:ITBA/EXM/F/EXM-45/2025-26/1087726664(1) rejecting Renewal of Approval u/s 80G sought for by filing Form. No.10AB is against the Facts of the case and natural Justice.

2] Though Certain activities relates to Temple Administration and maintenance of places of Worship, the Trust also undertakes several Independent Charitable activities, benefitting the General Public, ir-respective of Caste, Creed, Religion or Community.

3] The main objectives of the Trust Primarily include providing Food (Annadhanam) to Poor and Needy persons, Medical Assistance and relief activities, Educational Assistance to economically Weaker Sections support to destitute and under privilege persons and Public Welfare activities and community support programme.

4] It can be seen from the Financial Statements filed with the returns of income that the Trust has not conducted any Religious activities. "Expression Religious cum Charitable" in Old Form. 10A/10AC is not conclusive and it is only a description in the Form.

5] The Real nature of the Trust is to be determined only based on objects, actual activities undertaken. Section.80G(5) specifically excludes only those Trust which are substantially religious in nature or the activities of the Trust relate substantially to religious ones.

6] Explanation 3 to Section.80G(5) spells out the intent of the Section which Reads as Under:-
Explanation 3:
i] In this Section, "Charitable purpose" does not include any purpose the whole or substantially the whole of which is of a Religious nature.
ii] If the Deed shows dominant Public Charitable objects, and any Religious Object is only ancillary or incidental the mere wording in the Form should not by itself justify rejection.
iii] Even if the Trust under takes some Religious activity the savings clause in Section.80G(5B) states a Cap on the expenditure that will not invalidate the Trust's eligibility U/s.80G.

7] Merely because in the earlier Form.No.10A/10AC the nature of Trust was shown as "Religious cum Charitable", approval U/s.80G(5) cannot be rejected automatically.

8] The Statutory Test U/s.80G is:-
i] Whether the Institution is established in India for Charitable purposes,
ii] Whether it is not for the benefit of any particular Religious community or Caste and
iii] Whether any Religious expenditure is only incidental and within the Scope of Section.80G(5B).

9] In the present case of the Appellant the objects of the Trust clearly include only Charitable purposes. The Trust does not exist solely or substantially for Religious propagation.

10] The Benefits of Charitable activities extend to the Public without discrimination. Hence the Trust satisfies the conditions prescribed U/s.80G(5).

11] In view of the above grounds and other evidences and explanations to be filed at the time of hearing the order of the CIT (Exemption) Chennai rejecting the Renewal of approval under section 80G may kindly be directed to be granted and justice rendered."

6. At the time of hearing, the ld.AR for the assessee reiterated the grounds of appeal and submitted that the ld.CIT(E) rejected the application merely on the basis of the description "Religious cum Charitable" and the expenses claimed towards the maintenance of Bhavanam Koil and Perumal Koil, without examining the objects of the Trust as a whole, the activities actually carried on by it and the proportion of its religious expenditure to its total income in terms of s.80G(5B) of the Act, and prayed that the ld.CIT(E) be directed to grant approval u/s.80G of the Act. Per contra, the ld.DR supported the order of the ld.CIT(E).

7. We have heard the rival submissions and perused the material available on record. The short issue that arises for our consideration is whether the ld.CIT(E) was justified in rejecting the application of the

assessee for approval u/s.80G of the Act merely on the ground that the Trust is registered as a “Religious cum Charitable” trust and has claimed expenses towards the maintenance of Bhavanam Koil and Perumal Koil in its Income and Expenditure statements for the AYs 2024-25 and 2025-26.

8. Section 80G(5) of the Act lays down the conditions which an institution or fund must fulfil to be eligible for approval. Among them, clause (ii) requires that the instrument under which the institution is constituted does not provide for the transfer or application of its income or assets for any purpose other than a charitable purpose, and clause (iii) requires that the institution is not expressed to be for the benefit of any particular religious community or caste. Explanation 3 to section 80G of the Act provides that “charitable purpose” does not include any purpose the whole or substantially the whole of which is of a religious nature. Further, section 80G(5B) of the Act provides that, notwithstanding anything contained in clause (ii) of sub-section (5) and Explanation 3, an institution or fund which incurs expenditure of a religious nature during any previous year 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 section 80G apply.

9. A reading of the above provisions makes it clear that the Act does not exclude every trust having some religious objects or incurring some religious expenditure from the purview of section 80G of the Act. Explanation 3 excludes only a purpose the whole or substantially the whole of which is of a religious nature, and section 80G(5B) expressly saves an institution whose religious expenditure in a previous year does not exceed five per cent of its total income of that year. Therefore, the view of the ld.CIT(E) in para 4.1.3 of the impugned order that institutions established for religious and charitable

purposes are, as such, not eligible for approval is not in accordance with the scheme of the section. Likewise, the description of the nature of activities as "Religious cum Charitable" in the Form, or the registration u/s.12AB of the Act under that description, is not by itself determinative of the eligibility for approval u/s.80G of the Act, since section 11 of the Act exempts income applied for both religious and charitable purposes, whereas approval u/s.80G is governed by the distinct conditions in section 80G(5), Explanation 3 and section 80G(5B) of the Act.

10. In the present case, we find that the ld.CIT(E) has rejected the application only on the basis that the Trust is registered as a "Religious cum Charitable" trust and that its Income and Expenditure statements for the AYs 2024-25 and 2025-26 include expenses towards the maintenance of Bhavanam Koil and Perumal Koil. The mere presence of such expenses does not, by itself, establish that the whole or substantially the whole of the purpose of the Trust is religious, and the ld.CIT(E) has not quantified the said expenses or compared them with the total income of the Trust. The impugned order does not examine the objects of the Trust as a whole or the activities actually carried on by it, such as Annadhanam, medical assistance and educational assistance claimed by the assessee; it does not record any finding as to whether the whole or substantially the whole of the purpose of the Trust is religious; it does not ascertain whether the expenditure of a religious nature incurred by the assessee, including the expenses on the maintenance of Bhavanam Koil and Perumal Koil, exceeds five per cent of its total income in the relevant previous years, so as to examine the applicability of section 80G(5B) of the Act; and it does not examine whether the Trust is expressed to be for the benefit of any particular religious community or caste. It is also noted that the application was filed under

clause (ii) of the first proviso to section 80G(5) of the Act for renewal of the approval, and the impugned order does not consider whether there has been any change in the objects or activities of the Trust since the approval was earlier granted. A co-ordinate Bench of the Tribunal in Shree Sahajanand Gaushala Trust v. CIT(E) (ITA No.179/Rjt/2023, order dated 28.02.2024), on similar facts, restored the matter to the ld.CIT(E) for fresh examination of the religious expenditure of the trust with reference to the threshold in section 80G(5B) of the Act.

11. Since the facts necessary to decide the eligibility of the assessee have not been examined by the ld.CIT(E), we are of the considered view that the matter requires fresh consideration. Accordingly, we set aside the order of the ld.CIT(E) dated 22.03.2026 and remit the issue back to the file of the ld.CIT(E) with a direction to consider the application of the assessee dated 27.09.2025 afresh, by examining the objects of the Trust as a whole along with the activities actually carried on by it, the expenditure of a religious nature incurred by it in the relevant previous years, including the expenses on the maintenance of Bhavanam Koil and Perumal Koil, as a proportion of its total income in terms of section 80G(5B) of the Act, and the other conditions laid down in section 80G(5) of the Act, and to pass a speaking order in accordance with law after affording a reasonable opportunity of being heard to the assessee. The assessee is directed to furnish its trust deed, audited financial statements, the break-up of its expenditure into religious and charitable heads and such other details and evidence as may be called for by the ld.CIT(E), and to co-operate in the proceedings. The grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 11th day of November, 2026 at Chennai.

Sd/-
(यस यस विश्वनेत्र रवि)
(S.S. Viswanethra Ravi)
न्यायिक सदस्य / Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S.R. Raghunatha)
लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: *11th* November, 2026.

E Durga Naresh, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

EJTADA DURGA NARESH
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