

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI SANJAY AWATHI, ACCOUNTANT MEMBER**

**ITA No.1835/Del/2026
(Assessment Year: -----)**

Baba Banda Singh Bahadur, DLF Colony Rohtak 124001, Haryana	Vs.	Commissioner of Income Tax (Exemption) Room No. 1, 5 th Floor, CR Building, Himalaya Marg, Sector 17-3, Chandigarh 160017
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAATB4283G		
Appellant	..	Respondent

Appellant by :	Smt. Rano Jain, Adv. Ms. Mansi Jain, CA Sh. Tanishq Ahuja, Adv.
Respondent by :	Sh. Jitender Singh, CIT, DR

Date of Hearing	14.07.2026
Date of Pronouncement	19.08.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order dated 06.01.2026 of the ld. Commissioner of Income-tax (Exemption), Chandigarh (hereinafter referred as ‘Prescribed Authority’) against the

rejection of approval application in Form 10A filed under Section 80G(5) of the Act.

2. The facts in brief are that assessee, a Society, filed application in Form 10A for approval u/s 80G(5) (iv) of the Act and provisional registration was granted in Form 10AC a period of 24.09.2021 to AY: 2024-25 vide order dated 24.09.2201 copy of which is available in paper book at page No. 8. Assessee Society was earlier enjoining approval u/s 80G of the Act and the copy of approval is available at page No. 10-11 of the paper book. As assessee applied for renewal of the approval, vide impugned order dated 06.01.2026, Society's claim for approval u/s 80G(5)(ii) of the Act was dismissed by Id. Prescribed authority by relying the judgment of Hon'ble Supreme Court in **Upper Ganges Sugar Mills Ltd. Vs. CIT (1997) 93 Taxman 645 (SC)** by observing that even if one object of the Society is wholly or substantially of religious nature the Society cannot be said to be established for charitable purposes. Thus, considering the memorandum of association of the society, Id. Prescribed authority concluded that it has objects of construction, maintenance and management of temples, gurudwara and religious places. Thus, it is also engaged in promotion and propagation of religious faith. These activities

are predominantly religious in nature. Therefore, the application of the assessee was rejected for which assessee is in appeal and has raised following grounds:

- “1. On the facts and circumstances of the case the order passed by CIT(Ex) rejecting the application for approval of the Society under section 80G of the Act is bad in law.*
- 2. On the facts and circumstances of the case Id. CIT(Ex) has erred both on facts and in law rejecting the application despite the assessee having fulfilled all the conditions as prescribed under section 80G of the Act.*
- 3.(i) On the facts and circumstances of the case Id. CIT(Ex) has erred both on facts and in law in holding that the assessee is engaged in the religious activities in contravention to the provisions of section 80G(5) of the Act. (ii) That the Id. CIT(Ex) has erred in holding the same, ignoring the fact that the activities of the Society are not to be benefitted by any particular religion but are meant for the society at large.*
- 4. The appellant craves leave to amend, alter any of the grounds of appeal.”*

3. Ld. Counsel for the assessee has submitted that without examining the financials of the assessee Id. Prescribed authority has concluded about religious activities being conducted by the assessee while that is not the case. It was submitted that after decision of **Upper Ganges Sugar Mills Ltd. Vs. CIT (supra)** there has been amendment in the Act, and our attention was drawn to sub-section (5B) of Section 80G inserted by Finance Act, 1994 w.e.f 01.04.1994 which provides that wherein institutions make expenditure in the relevant year, which is of religious nature for an amount not exceeding 5% of its total income in that previous year then, for the previous year, the institution shall be deemed exempted

u/s 80G. Ld. Counsel relied decisions in **CIT (Exemptions) Vs. Tulshishyam Mandir Society, Junagadh (2026) (6) TMI 832 – Gujarat High Court**; and **Coordinate Bench decision in Shri 108 Gupti SagarDham Jain Society Vs. CIT (Exemption), Chandigarh vide ITA No.7551/Del/2025 dated 26.05.2026**; and **Coordinate Bench decision in Shri Baba Balakpuri Ji Charitable Society Vs. ITO Exemption vide ITA No. 5833/Del/2025 order 18.02.2026**; **Anjuman-E-Himayath-E-Islam Vs. CIT, Exemption, Chennai vide ITA No. 3951/Chny/2025 dated 10.04.2026**; and **Shree ModeshwariDvsthan Society Ahmedabad Vs. CIT (Exemption) vide ITA No. 145/Ahd/2025**; and **BhatidhamSeva Society Vs. CIT (Exemption) vide ITA No. 33/AHD/2025 dated 08.01.2026**; and **Sri Guru Nanak Devji Religious And Charitable Society Vs. CIT (Exemptions) vide ITA No. 384/CTK/2018 dated 24.05.2021** to contend that Hon'ble Delhi High Courts and Coordinate Benches have consistently taken a view that if the religious expenditure are within the statutory limit, approval u/s 80G of the Act cannot be denied.

3.1 Ld. DR vehemently supported the impugned order of ld. CIT(E).

4. Appreciating the contention and after perusal of material on record we are of the considered view that Id. Prescribed authority has nowhere analysed financials of the assessee to draw inference with regard to the activities of the assessee being religious in nature and only on the basis of objectives in the memorandum of association such a conclusion has been drawn. In this regard, we are of the considered view that memorandum of association containing articles with regard to objects and scope of activities are generally framed keeping in mind the long term perspective of the Society and such institutions try to include and extend their activities to all spheres of charitable activities and also for the reason to avoid seeking amendments in the objectives.

4.1 Thus, without actually indicating as to what activities of religious nature have been taken up by institution, merely on the basis of reference to some objectives, mentioned in the objective documents, which may be religious too, the denial of approval is not justified. More so, when it is the case of renewal of approval and wherein it is merely necessary to examine the financials of immediately previous years to allege expenditure were made on religious activities.

5. In the case of assessee our attention has been drawn to the total computation of income and financials and reports for year ending 31.03.2021 to 31.03.2025 available at page No. 40-101 of the paper book and the same show that actually no expenditure on alleged religious activities has been incurred. Rather, it is established that the Society maintained two set of financials, one for Baba Banda Singh Bahadur Public School and another for remaining activities of the Society and the financials of the applicant Society do not show any expenditure was made for religious purposes. The decisions relied by the Id. Counsel with regard to benefit of sub-section (5B) of Section 80G of the Act certainly deserves to be relied by us.

6. Further, having perused the Bye Laws of assessee made available at page 14-39 of the PB and which are also reproduced in the impugned order, we are of the considered view that assessee sufficiently establishes that there is actually no case of alleged religious activities. The same reflect that the primary object is to enhance cohesion between different communities, to work for establishing religious sentiment in Indian children and to promote their allegiance towards Indian culture. Further they have objective of running hospital while keeping itself away from all political activities in every manner. Thus, without doubt primary

objectives of the society are charitable in nature and only because it refers to construction or maintenance of Mandir & Gurudwara or other places of pilgrimage does not make its activity religious in nature as there is nothing that while constructing these places of worship or managing these places of worship or places of pilgrimage there is any indication of discrimination of the beneficiaries on the basis of their personal religion. More so when places of worship of different faiths are to be run along with educational institutions and medical facilities, there cannot be justification to allege that assessee before us is engaged in religious activity.

7. We are of the considered view that Id. Tax authorities while examining the scope of religious activities in context to grant of benefit of approval u/s 80G(5)(ii) of the Act should be circumspect to the predominant and actual intention of the applicant institution, as religions have in their foundation a philosophy of larger benefit to all forms of life and character building of individuals. Thus every religious activity cannot be looked with culpability to deny approval. Religion is a way of life intrinsically linked to the societal integration and peace and also dignity of an individual. It is only when there is an indication that intention of a religious activity is to segregate and benefit people on the basis of caste,

creed, or their way of life or religious sentiment, or to propagate particular religious belief to exclusion of other or proselytisation then certainly the objective of establishing or maintaining any religious institution or place of worship and pilgrimages, will make said religious activity, a prohibited activity, to deny approval. The activity, though emanating out of religious order cannot be alleged to be religious activity, while the colour actually is secular. A distinction must always be made between a practice which is religious and a practice in regard to a matter which is purely secular and has no element of religiosity associated with it.

8. In fact, to our mind, since the Act does not define ‘religious activity’, thus while examining the application of approval u/s 80G, to satisfy if the assessee is engaged or not, in religious activity, the Essential Religious Practices (ERP) test, doctrine settled by the Hon’ble Supreme Court of India in 1954 during the **Shirur Mutt case AIR 1954 SC 282**, to decide which religious rituals and activities receive protection under Articles 25 and 26 of the Constitution, should broadly be the parameters to examine if the said activity is religious, so as to deny the approval of benefit of section 80G of the Act. It is only in case of expenses on ERP are made, then that should be examined to establish that the predominant objective is religious activity. Activities like establishing and running

hospital, educational institutions, places of rehabilitation of bovine or other animals, *Dharamshala*, maintaining amenities at religious places of worship or pilgrimages, and such like public utility activities, if are taken up by any institution, trust or society, which also serves any place of worship, by performing essential practices of a religion, then what is material is to examine what is the predominant object and proportionality of expenditures.

9. In the light of aforesaid, discussion made by us, we find that Id. CIT(E) has given a very narrow interpretation to scope of Section 80G, and has thus erroneously dismissed the application of the assessee. We thus, allow the appeal of the assessee. The Id. CIT(E) is directed to grant the approval, in a period of 4 weeks from receipt of this order.

Order pronounced in the open court on 19.08.2026

Sd/-
(Sanjay Awasthi)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 19.08.2026
Rohit, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI