

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

**ITA No. 6909/Del/2018
Assessment Year: 2015-16**

Urmila Devi Charitable Trust, R-9/242, Raj Nagar, Ghaziabad, Uttar Pradesh. PAN No. AAAAU1715B	vs	ITO Exemption Ward, Ghaziabad.
APPELLANT		RESPONDENT

Assessee by	Shri Rohit Tiwari, Adv.
Revenue by	Shri S.L. Anuragi, Sr. DR

ORDER

The assessee filed the present appeal against the impugned order dated 31.08.2018 passed by Ld. CIT(A) on the following grounds:

1. *“That on the facts and in the circumstances of the case, the order passed by CIT(A) is bad in law.*
2. *That on the facts and the circumstances of the case, Ld. CIT(A) erred in confirming the addition made by the ITO Exemption Ward, Ghaziabad of treating the donation of Rs. 5,00,000/- from family concern namely Vibhor Vaibhav Infrastructure P. Ltd., Rs. 10,00,000/- from Solitaire Infra Homes P. Ltd. and Rs. 16,00,000/- from Vibhor Vaibhav Infra Homes P. Ltd. as donation in lieu of cash thereby treating the entire donation of Rs. 31,00,000/- received by the trust as taxable by denying benefit of section 11 and 12 of the Act. The addition of Rs. 31,00,000/- made to the income of the trust and the assessment framed is thus illegal, unjustified, unwarranted*

and bad in law.

3. *That on the facts and the circumstances of the case the Ld. CIT(A) erred in confirming the view of Ld. AO. Because Ld. AO has done the assessment on mere surmises, conjectures and in mechanical manner without making any independent enquiries in regard to the details and confirmations furnished in evidence of the donations of Rs. 31,00,000/- received by the trust. The confirmations filed have been not verified and examined and the rejection of the evidence it thus warranted, illegal and bad in law. The income determined at Rs. 32,61,740/- after adding the surplus declared in the profit and loss account is any case not justified and the same is bad in the eyes of law.*
4. *That on the facts and the circumstances of the case, the Ld. CIT(A) erred in confirming the action of the Ld. AO of not following the principle of natural justice as the appellant was not confronted with the evidence in the possession of the Assessing Officer on the issue of donation in lieu of cash and that the appellant was not provided opportunity of cross examine the donors and witnesses whose statements were recorded at the back of the appellant and after a substantially long period alleging donation in lieu of cash from the reasons and motives best known to the witnesses and the donors.*
5. *That the appellant reserves its right to add, alter, amend or withdraw any ground of appeal either before or at the time of hearing of this appeal.”*

2. Facts narrated by the Revenue authorities are not disputed by both the parties, therefore, no need to repeat the same for the sake of convenience.

3. At the time of hearing, Ld. Counsel for the assessee stated that AO made the addition in dispute only on the ground that registration u/s 12AA of the Income Tax Act was cancelled by the CIT(E)-Lucknow and assessee is not eligible for any benefit of section 11 of the Income Tax Act. He, further, stated that now the ITAT vide order dated 13.06.2019 has allowed the appeal of the assessee filed against the cancellation of registration w.e.f. 01.04.2010. He has also filed the copy of the order dated 13.06.2019 passed in ITA No. 4136/Del/2017 in the case of assessee i.e. M/s Urmila Devi Charitable Trust vs. Commissioner of Income Tax (Exemption). He requested that the addition in dispute may be deleted by accepting the appeal filed by the assessee.

4. On the contrary, Ld. DR relied upon the order passed by the Ld. CIT(E). He stated that the assessee has not filed the copy of order dated 13.06.2019 before the authorities below.

5. I have heard both the parties and perused the relevant record available with us especially orders passed by the Revenue authorities as well as the Tribunal's order dated 13.06.2019 passed in ITA No. 4136/Del/2017 AY 2011-12 in the case of M/s Urmila Devi Charitable Trust vs. CIT(E) and I am of the view that in para no. 18 page no. 60 of the order dated 13.06.2019 the ITAT Delhi 'G' Bench, New Delhi has accepted the appeal of the assessee against the order passed u/s 12AA(3) dated 22.04.2016 cancelling the registration w.e.f. 01.04.2010.

6. Keeping in view of the facts and circumstances of the case, the addition in dispute which is made only on the basis of cancellation of registration, vide order dated 22.04.2016 w.e.f. 01.04.2010 which has been cancelled by the Tribunal, vide order dated 13.06.2019 as above said, in my view, the basis of the addition has gone, therefore, the addition in dispute deserves to be deleted. Therefore, I delete the addition in dispute by accepting the appeal filed by the assessee.

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

Order pronounced in the open Court.

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 10/07/2019

*Kavita Arora

Copy forwarded to:

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

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ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	09.07.2019
Date on which the typed draft is placed before the dictating Member	10.07.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	10.07.2019
Date on which the fair order is placed before the Dictating Member for pronouncement	10.07.2019
Date on which the fair order comes back to the Sr. PS/PS	10.07.2019
Date on which the final order is uploaded on the website of ITAT	10.07.2019
Date on which the file goes to the Bench Clerk	10.07.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	