

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "B", BANGALORE**

**Before Shri George George K, JM & Shri B.R.Baskaran, AM**

ITA No.1300/Bang/2019 : Asst.Year 2015-2016

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| The Income Tax Officer<br>(Exemption) Ward 1<br>Mangaluru. | Vs. | M/s.Catholic Diocese of<br>Karwar, Door No.416,<br>Puneeth Sadan, Shirwad,<br>Karwar – 581 306.<br><b>PAN : AAATC1869K.</b> |
| (Appellant)  |     | (Respondent)  |

Appellant by :Smt.Soumya K., Advocate  
Respondent by :Sri.Priyadarshi Mishra, JCIT-DR

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| <b>Date of Hearing : 13.10.2020</b> | <b>Date of<br/>Pronouncement : 13.10.2020</b> |
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**ORDER**

**Per George George K, JM :**

This appeal at the instance of the Department is directed against CIT(A)'s order dated 19.03.2019. The relevant Assessment Year is 2015-2016.

2. The grounds raised read as follows:

*"1. The order of the Ld.CIT(A) is opposed to law and facts of the case.*

*2. Disallowance of Foreign Contribution and interest received:*

*2.1 The learned CIT(A) failed to take cognizance of the fact to treat the Foreign Contribution and utilization thereof as Revenue receipts and revenue expenditure under the I.T.Act. The Foreign Contribution received should have been shown in combined receipts and payment account and a combined income and expenditure account for the purpose of computing income of the assessee under section 11 of the Act.*

*2.2 The learned CIT(A) erred that tied up funds / foreign contat tied up funds / foreign contributions is required to be treated as the revenue receipts of the trust and accordingly the*

*inflow and outflow of the foreign donations is treated as revenue receipts and revenue expenditure.*

*2.3 On the facts and circumstances of the case the learned CIT(A) erred in concluding that the assessee is only a trustee in respect of the amount of Foreign Contribution received.*

*2.4 The learned CIT(A) erred in deleting the receipts and payments in respect of foreign contributions for the purpose of computing income of the assessee under section 11 of the act.*

*2.5 The learned CIT(A) erred in holding that foreign contribution received is for specific purpose and same is not to be considered as income of the assessee trust.*

*2.6 The facts of the case relied on by the Hon'ble CIT(A) is different from the assessee's case.*

### **3. Addition made on Specific fund**

*3.1 The Ld.CIT(A) erred in holding that treatment given by the assessee in the books is not conclusive or decisive in order to be computed in accordance with the provisions of the Income Tax Act.*

*3.2 The Ld.CIT(A) ought to have appreciated the fact that, only when the discretion to decide the specific payee is not given to the assessee trust, the specific funds have to be treated as current liabilities and otherwise, the same have to be treated as income and the same shall be treated as expenditure when it is used for the specific purpose.*

*3.3 The Ld.CIT(A) erred in admitting additional evidence without following the rule 46A of the Income Tax Rules, 1962.*

*4. For these and such other grounds it is urged that the order of the Ld.CIT(A), on the above points may be set aside and the order of the Assessing Officer be restored.*

*5. The appellant craves leave to add, alter or amend all or any of the grounds of appeal before or at the time of the hearing of the appeal."*

3. Briefly stated the facts of the case are as follows:

The assessee is a religious trust registered u/s 12AA of the I.T.Act. The return o income was filed on 19.09.2019 declaring `NIL' income. The assessee had received foreign

contribution of Rs.3,17,91,244 (including interest). The above sum was treated as corpus donation by the assessee. The assessment was completed u/s 143(3) of the I.T.Act (order dated 28.11.2017), wherein the above sum of Rs.3,17,91,244 was treated as a voluntary contribution and brought to tax as revenue receipt of the assessee-trust.

4. Aggrieved by the assessment order, the assessee filed appeal to the first appellate authority. The CIT(A) following his order for assessment year 2012-2013 (in assessee's own case) allowed the appeal of the assessee. The relevant finding of the CIT(A) reads as follow:-

*“5.3 Identical issues were discussed in detail and decided by me in the case of the appellant itself for A.Y. 2012-13 in ITA No.57/MNG/CIT(A)MNG/15-16 vide order dated 17.03.2017. Identical issues are involved in A.Y. 2015-16also. For the detailed reasons recorded in that order, I hereby direct the AO to delete the receipts and payment in respect of foreign contributions and specific funds for the purpose of computing income of the appellant under section 11 of the Act. The grounds on the issue are allowed.”*

5. The Revenue being aggrieved by the order of the CIT(A), has filed this appeal before the Tribunal. The learned Departmental Representative submitted that the CIT(A) has relied on his order in assessee's own case for assessment year 2012-2013, without examining the purpose for which the foreign contribution was received and whether it has been utilized for the intended purpose. The learned DR relied on the ITAT's order in assessee's own case for assessment year 2014-2015 in ITA No.599/Bang/2018 (order dated 29.8.2018).

6. The learned AR, on the other hand, supported the order of the CIT(A).

7. We have heard the rival submissions and perused the material on record. The Tribunal in assessee's own case for assessment year 2014-2015 (supra) had restored an identical issue to the files of the A.O. for *de novo* consideration. The relevant finding of the ITAT for assessment year 2014-2015 reads as follow:-

*"15. We have heard the rival submissions and perused the record. The CIT(A) had merely followed the order passed in the case of the assessee for Assessment Year 2012-13. However the CIT(A) has not examined any of the documents mentioned in the paper book before us running pages 56 to 81. In the light of the above, as the CIT(A) has not examined any of the documents filed by the assessee and had wrongly come to the conclusion relying upon the decision passed in the case of the assessee for Assessment Year 2012-13, his order cannot be sustained. Therefore, we restore this issue of foreign contribution and specific fund donation issues to the file of the AO to examine afresh after giving opportunity to the assessee of being heard. The AO is directed to scrutinize the purpose of foreign contribution received by the assessee and further to examine whether such foreign contribution was used for the purpose for which it has been received by the assessee. Needless to say the specific purpose for which contribution was received by the assessee should be in accordance with the aims and object of the assessee and should not in any case violate any provision of law."*

8. In this case also, the CIT(A) has merely followed his order for assessment year 2012-2013 without examining whether the foreign contribution is a corpus donation and whether it has been utilized for the intended purpose. Therefore, in view of the Tribunal order, in assessee's own case for the assessment year 2014-2015 (supra), we restore the matter to the files of the A.O. for *de novo* consideration. The A.O. is directed to scrutinize the

purpose for which the foreign contribution was received and whether the same has been utilized for the intended purpose. Needless to state, the assessee shall be afforded an opportunity of hearing before a decision is taken in the matter. It is ordered accordingly.

9. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced on this day of 13<sup>th</sup> October, 2020.

**Sd/-**  
**(B.R.Baskaran)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 13<sup>th</sup> October, 2020.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-Mangaluru.
4. The CIT (Exemptions), Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore