

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 1566/H/2019 Assessment Year: 2011-12		
Asst. Commissioner of Income-tax, Exemptions, Hyderabad.	Vs.	Nice Foundation, Hyderabad.  PAN - AAATN 9395H
(Appellants)		(Respondent)
Assessee by:		Shri A.V. Raghuram
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		16/03/2021
Date of pronouncement:		29/04/2021

**ORDER**

**PER L.P. Sahu, AM:**

This appeal filed by the Revenue for AY 2011-12 is directed against the CIT(A) - 9, Hyderabad's order, dated 29/07/2019 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act".

2. Brief facts of the case are that the assessee filed return of income for A.Y. 2011-12 on 03.10.2011 declaring income of NIL after claiming u/s 11 of the I.T. Act, 1961. The AO observed that the total income during this year was Rs. 8,69,88,597/- and the total expenditure including capital was Rs. 9,78,37,965/-, therefore, it is a case where expenditure is more by Rs.

1,08,49,368/- from the receipts during the year. The return was processed u/s 143(1) of the I. T. Act, 1961. Subsequently, the case was selected for scrutiny under CASS After issuing the statutory notices u/s 142(1) and 143(2) were issued and served on the assessee, the AO completed the assessment by assessing the income of Rs. 1,96,16,670/- by making the additions of Rs. 1,83,13,640/- and Rs. 2,47,309/- on account of donations.

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A) and filed written submissions, which were extracted by the CIT(A) in his order.

4. The CIT(A) after considering the submissions of the assessee and remand report of the AO, elaborately discussed the issue in dispute at length with various decisions of ITAT as well as the provisions of section 115BC and CBDT Circular No. 5/2010, dated 03/06/2010 and directed the AO to delete the additions made on account of donations. The CITA) held as under:

*"7.4 The details of donations received submitted before Assessing Officer have been perused. Most of the donations are in the range of Rs. 4,000 to Rs. 5,000/- which prima facie appears suspicious, although the name and address of donor including village is submitted. However, respectfully following the above mentioned decisions, the Assessing Officer is directed to delete the addition of Rs.*

*1,83,13,640/- made u/s. 115(BBC) of the I. T. Act, 1961."*

4.1 The CIT(A) has also relied on the following decisions of the coordinate benches of the Tribunal:

1. Dharendra Pal Singh Institute of Higher Education Vs. JCIT, ITA No. 187/Agra/2016, dated 13/07/2018.
2. ACIT Vs. Shree Shiv Vankeshwar Educational and Social Welfare Trust, ITA No. 4623/Del/2012, dated 16/05/2019.

4.2 As regards the addition of Rs. 2,47,309/-, the CIT(A) directed the AO to delete the same on the above lines.

5. Aggrieved by the order of CIT(A), the revenue is in appeal before us raising five grounds of appeal, the sum and substance of which are against the action of CIT(A) in deleting the additions of Rs. 1,83,13,640/- and Rs. 2,47,309/-.

6. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The submission of the assessee before the CIT(A) is that it has never had any income that could be introduced as anonymous donations as its income is any way exempt. It is not an educational institution to have income which is to bring in some form or other. The foundation in fact has incurred cash loss as expenditure is more than the

receipts. These donations were genuinely given by the residents of the place where the foundation carried out camp of school children health care so that they could get matching grant from the Government of Rajasthan.

6.1 The CIT(A) after considering the submissions of the assessee, analysed the issue in dispute at length with various decisions of ITAT, and directed the AO to delete the additions made on account of anonymous donations. On considering the totality of the facts of the case, we do not find any infirmity in the order of the CIT(A) in directing the AO to delete the additions.

7. In the result, appeal of the revenue is dismissed.

Pronounced in the open court on 29<sup>th</sup> April, 2021.

Sd/-  
(S.S. GODARA)  
JUDICIAL MEMBER

Sd/-  
(L.P. SAHU)  
ACCOUNTANT MEMBER

Hyderabad, dated 29<sup>th</sup> April, 2021

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1	<i>ACIT(E), 2<sup>nd</sup> Floor, Opp. LB Stadium, Aayakar Bhavan, Basheerbagh, Hyderabad.</i>
2	<i>M/s Nice Foundation, 10-2-2047 &amp; 2048, Shanti Nagar, Opp. Masab Tank, Hyderabad.</i>
3	<i>CIT(A) - 9, Hyderabad.</i>
4	<i>CIT(E), Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>

S.No.	Details	Date
1	Draft dictated on	
2	Draft placed before author	
3	Draft proposed & placed before the Second Member	
4	Draft discussed/approved by Second Member	
5	Approved Draft comes to the Sr. PS/PS	
6	Kept for pronouncement	
7	File sent to Bench Clerk	
8	Date on which the file goes to Head Clerk	
9	Date on which file goes to A.R.	
10	Date of Dispatch of order	