

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

**BEFORE SHRI G.S. PANNU, VICE PRESIDENT
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
I.T.A. No. 1711/DEL/2013 (A.Y 2005-06)**

(THROUGH VIDEO CONFERENCING)

Dy. DIT (E) Investigation Circle-II New Delhi (APPELLANT)	Vs	Parayas Juvenile Aid Centres F-1-X, Jahangir Puri Delhi AAATP0449E (RESPONDENT)
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Appellant by	Sh. Farhat Khan, Sr. DR
Respondent by	Sh. Salil Aggarwal, Adv & Sh. Shailesh Gupta, Adv

Date of Hearing	21.06.2021
Date of Pronouncement	29.06.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the Revenue against order dated 22/01/2013 passed by CIT(A)-XXI, New Delhi for assessment year 2005-06.

2. The grounds of appeal are as under:-

1. *On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the fact that out of total receipts amounting to Rs.6,70,82,812/-, assessee has reduced the unutilized grants of Rs. 1,69,45,310/- directly from the total receipts, which is not acceptable.*
2. *On the facts and in the circumstances of the case and in law, the I.d.CIT(A) has erred in deleting the addition, made by the AO, of 25% of*

the expenditure of Rs.5,22,61,219/- in absence of books of account and other details of expenses, despite several opportunities were provided to the assessee.

3. The assessee is a society registered under the Societies Registration Act, 1860 on 29/08/1989. The assessee is also registered with Income Tax u/s 12A (a) vide order dated 18/9/1991 and with Ministry of Home Affairs to receive Foreign Contributions vide FCRA No. 231650681. The assessee is also notified u/s 80G (5)(vi) vide order dated 16/7/2004 and notified u/s 10(23C)(iv) of the Income Tax Act, 1961 vide Notification No. 77/2002 dated 24/4/2002. The Society is also an approved institution notified u/s 35AC of the Income Tax Act, 1961 vide Notification No. 297-2002/F No. NC-90/2002 dated 11/10/2002 by the Government of India, Ministry of Finance and Company Affairs. The assessee Society filed its return of income declaring NIL income on 27/10/2005. In response to notice u/s 142(1) and 143(2) from time to time the Senior Manager Finance, Treasurer and Executive Director attended the proceedings and filed all the requisite details, information and explanations, which is already on record. The assessee society is working in the neglected street and working children in Delhi, Gurjrat (Bhuj), Assam, Andaman Nicobar, Bihar and Arunachal Pradesh. The source of funding for the various projects run by the society is from government grants, state government grants, FCRA Funds/contributions from various countries and donations etc. The accounts of the assessee are subject to statutory audit and also audit by the Government Agencies like AGCR and by the auditors appointed by the funding agencies. The grant/funds received from Government, various Ministries and grants from foreign contributions/funds are in pursuance to agreements/contracts and in terms thereof the amount of unutilized grants is liable to be refunded. The Assessing Officer while passing an order u/s 143(3) disallowed Rs. 1,30,65,305/- on ad-hoc basis from the expenses incurred or funds applied for charitable purposes and denied deductions u/s 11(1) to the society.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. DR submitted that the CIT(A) erred in allowing the assessee to reduce the unutilized grants of Rs. 1,69,45,310/- directly from the total receipts. The Ld. DR further submitted that the CIT(A) erred in deleting the addition made by the Assessing Officer of 25% of expenditure of Rs. 5,22,61,219/- in absence of books of accounts and other details of expenses, despite several opportunities were provided to the assessee.

6. The Ld. AR relied upon the order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the source of funding for the various projects run by the society is from government grants, state government grants, FCRA Funds/contributions from various countries and donations etc. The accounts of the assessee are subject to statutory audit and also audit by the Government Agencies like AGCR and by the auditors appointed by the funding agencies. These facts were not disputed by the Assessing Officer. The grant/funds received from Government, various Ministries and grants from foreign contributions/funds are in pursuance to agreements/contracts and in terms thereof the amount of unutilized grants is liable to be refunded. The Assessing Officer while passing an order u/s 143(3) has wrongly considered the amount of unutilized grant in aid that of Rs.1,69,45,310/- as income and disallowed Rs. 1,30,65,305/- on ad-hoc basis from the expenses incurred or funds applied for charitable purposes. The Assessing Officer has also wrongly denied deductions u/s 11(1) to the society which is not just and proper once, the assessee society has given the details of the unutilized grant in aid and expenses and fulfills the criteria prescribed under Section 11(1) of the Act. The CIT(A) has taken a proper cognizance of all the relevant facts thereby calling remand report from the Assessing Officer. The Assessing Officer has not given any adverse comment in respect of the remand report regarding the assessee's

contentions before the CIT(A). Therefore, there is no need to interfere with the findings of the CIT(A). The appeal of the Revenue is dismissed.

8. In result, appeal of the Revenue is dismissed.

Order pronounced in the Open Court on this 29th Day of June, 2021.

**Sd/-
(G. S. PANNU)
VICE PRESIDENT**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 29/06/2021

*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI