



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "A", LUCKNOW**

[Through Virtual Hearing]

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.572/LKW/2019
Assessment Year: 2016-17

The Dy. CIT (Exemptions) Lucknow	v.	M/s Swarveda Mahamandir Trust Maharshi Sadafal Deo Ashram Brajpur, Sarnath, Varanasi
		TAN/PAN:
(Appellant)		(Respondent)

Appellant by:	Shri P. P. Singh, C.A.		
Respondent by:	Smt. Sheela Chopra, CIT (DR)		
Date of hearing:	16	02	2022
Date of pronouncement:	02	03	2022

ORDER

PER A.D. JAIN, V.P.:

This is Revenue's appeal against the order of the ld. CIT (A), Varanasi, dated 3.7.2019, for Assessment Year 2016-17, raising the following grounds of appeal:

1. Ld. Commissioner of income Tax (A) has erred in law and facts by deleting the addition (donation in corpus fund of Rs.12,64,94,845/- + donation in other than corpus fund of Rs.4,07,96,949/-) relying upon the affidavit submitted by the assessee.
2. Ld. Commissioner of Income Tax (A) has erred in law and facts by deleting the addition (donation in corpus fund of Rs.12,64,94,845/- + donation in other than corpus fund

of Rs.4,07,96,949/-) without conducted any independent enquiry.

2. Challenging the impugned order, the ld. D.R. has contended that the ld. CIT(A) has erred in deleting the addition of Rs.12,64,94,845/- representing the donation in corpus fund and of Rs.4,07,96,949/- representing the donation in non-corpus fund, thereby giving a total relief of Rs.16,72,91,974/- to the assessee, merely relying on the affidavit submitted by the assessee, as also without conducting any independent enquiry himself.

3. On the other hand, the ld. Counsel for the assessee has placed strong reliance on the impugned order. It has been submitted that in response to the notice from the DCIT (E), the complete details along with supporting evidence, justifying the donations received, both, in the corpus fund and other than corpus fund, were filed on behalf of the assessee. The list of donors, containing the names and addresses and amounts of the donations, was furnished; that however, the Assessing Officer made addition of the total amount of Rs.16,72,91,974/- representing corpus and non-corpus donations, observing that the assessment proceedings were getting barred by limitation on 31.12.18 and that within the short period of time available, the details of donors, as maintained by the assessee and provided during the assessment proceedings, could not be verified; that in the appeal proceedings before the ld. CIT(A), the assessee had again filed all the details as furnished before the Assessing Officer; that the ld. CIT(A) asked for a Remand Report from the DCIT(E); that the DCIT(E) duly furnished his Remand Report after conducting necessary verification on sample basis, in cases of corpus as well as non-corpus donations; that the DCIT(E), in

his said Remand Report, concluded that the donations, on both counts, were received from genuine and identifiable donors; that it was as such, that the DCIT(E) did not enter any adverse remark in his Remand Report and accepted the genuineness of the donors as well as the donations regarding both the corpus as well as non-corpus donations, which had been the stand of the assessee right from the beginning, i.e., in the assessment proceedings for the year under consideration, as also in the earlier years, where the assessments had been framed at the income returned by the assessee; that the ld. CIT(A) duly took into account the Remand Report of the DCIT(E), which was based on a thorough enquiry, on a sample basis, based on the relevant material furnished by the assessee, including the donors' list, submitted on 8.5.19, in the form of affidavits from the donors, before the DCIT(E), as required by him; that in this manner, the order of the ld. CIT(A) is well-versed and it does not require any interference; and that, therefore, the appeal, having no merit whatsoever, be dismissed.

4. We have heard both the parties and have perused the material placed on record. The addition was made by the Assessing Officer, observing that the assessment proceedings were getting time-barred on 31.12.18 and within the short period of time left, the details of the donors maintained by the assessee and provided during the course of assessment proceedings could not be verified. The assessment order was passed on 27.12.18. Thus, irrefutably, the assessee had provided to the Assessing Officer, on 14.12.18, as per para 4 of the Assessment Order itself, in response to the Show Cause Notice issued on 6.12.18, all the details of the donors qua both, corpus as well as non-corpus funds, as maintained by the assessee, i.e., the names and

addresses of the donors and the amounts donated during the assessment proceedings.

5. In the appellate proceedings too, the assessee produced the complete ledger accounts of the donors in the corpus fund and in the non-corpus fund, along with the copies of receipts and the confirmations from the various donors, along with their ID proof, to substantiate the genuineness of the donors and to show that complete details were maintained in keeping with the provisions of section 115 BBC of the I.T. Act, as also to demonstrate that these donations were not anonymous donations. The Id. CIT(A), (a) considering these details to be the additional evidence, (b) observing that since they had not been produced before the Assessing Officer, (c) finding that the Assessing Officer had required the assessee to furnish the details of the donors only on 6.12.18, whereas the assessment would have gotten time-barred on 31.12.18, and the assessee had submitted these details to the Assessing Officer on 14.12.18, and the assessment order got passed on 27.12.18, and (d) so as to provide due and proper opportunity to the assessee as well as the Assessing Officer, admitted the additional evidence. The Assessing Officer was required to furnish his Remand Report on the said documents. It finds mention in para 8 of the Id. CIT(A)'s order that such a Remand Report had to be furnished by the Assessing Officer after conducting necessary verification, which the Assessing Officer did, on a sample basis, in the case of both the corpus and non-corpus donations.

6. The Assessing Officer, in his Remand Report, gave the list of verification of corpus donors and the list of verification of non-corpus donors. These have been reproduced in the impugned order at pages 21 to 23 and 18 to 20, respectively. The

said verification was done on a sample basis. There were 49 corpus donors and 53 non-corpus donors. In the list of verification of corpus donors, complete verification has been reported by the Assessing Officer in all but four cases, which four cases have been stated to be the cases of reported death. In the case of non-corpus donors, complete verification has been reported in the case of all the 53 donors.

7. The Assessing Officer did not enter any adverse remark in view of the above verifications.

8. The Id. CIT(A) found that the assessee had maintained complete details of the donors, indicating their names and addresses. As such, the donations could not be treated as anonymous donations for the purposes of section 115 BBC of the I.T. Act. This action of the Id. CIT(A) cannot be found fault with, nor has it been so done on behalf of the Department before us.

9. The undisputed fact remains that, the addition had been made, observing that no reply had been hitherto received in response to letter issued, on the basis of random selection, in the cases of both, corpus as well as non-corpus donations. Here, firstly, the assessee cannot be faulted for non-receipt of replies to letters written by the Assessing Officer directly to the donors. Then, even the Show Cause Notice issued to the assessee, was issued on 6.12.18, whereas the assessment would have been gotten time-barred on 31.12.18. The Assessment Order got passed on 27.12.18. It was, therefore, that at the remand stage that the details, i.e., complete ledger account of the donors in the corpus and other and non-corpus funds,

the copies of Receipts and Confirmations from various donors along with their ID proof got to be filed by the assessee again before the Assessing Officer, and that too, on its own accord. Now, irrespective, the fact remains that all these details were thoroughly examined and verified by the Assessing Officer, as required by the Id. CIT(A), and it was only on the basis of such verification that the Remand Report, accepting both the corpus as well as non-corpus donations, was furnished by the Assessing Officer before the Id. CIT(A).

10. Thus, it was not due to any fault of the assessee that the confirmations could not be received by the Assessing Officer in the original assessment proceedings. It was, rather, that even the time provided by the Assessing Officer to the assessee for furnishing details was too short, though the assessee had maintained, again, undisputedly, all possible details of all its donors, both the corpus as well as non-corpus, and such details were duly furnished by the assessee, before the Assessing Officer.

11. The Id. CIT(A) too, cannot be faulted for taking recourse to the remand proceedings. This is well within the province to Section 250(4) of the I.T. Act and it was the only correct measure to adopt at the first Appellate stage, where the details got to be furnished in toto.

12. Further still, in the remand proceedings, it is the Assessing Officer, who asked the assessee to provide the donors' list along with the confirmations, which were furnished by the assessee. The copies of such documents furnished are at pages 89 to 72 of the

assessee's paper book (counting in reverse, because the paper book has been paginated in reverse order).

13. The assessee, of its own, had furnished before the Assessing Officer in the assessment proceedings, all information regarding the donors and the donations. The Assessing Officer had not required the assessee to offer an explanation as to why the verification letters issued by the Assessing Officer had not been confirmed by the donors. Not even a list of the persons to whom verification letters had been issued by the Assessing Officer, had been given to the assessee.

14. The addition, thus, stood made without confronting the assessee in this regard and thereby violating the basic principles of natural justice and basing the assessment order on the enquiry conducted at the back of the assessee.

15. The ld. CIT(A) found, on the basis of the above facts and circumstances, beside the Remand Report of the Assessing Officer, that the assessee had maintained complete details of the donors, indicating their names and addresses and the amount received from each one of them. The Assessing Officer was observed to have conducted necessary verification. The Remand Report submitted by the Assessing Officer was seen to be without any adverse finding in view of the complete details provided and the verification made.

16. In the above conspectus of the matter, it cannot at all be said that the ld. CIT(A) deleted the addition merely on the basis of the affidavit submitted by the

assessee. Accordingly, Ground no.1 raised by the Department carries no merit. It is rejected. Likewise, due enquiry having got conducted by the ld. CIT(A) through the Assessing Officer, which procedure was correctly adopted by the ld. CIT(A), it cannot be said that the ld. CIT(A) deleted the additions without conducting any independent enquiry. That being so, Ground no.2 raised by the Department also does not carry any force and it too is rejected.

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

Order pronounced in the open Court on 02/03/2022.

Sd/-
[T. S. KAPOOR]
ACCOUNTANT MEMBER

Sd/-
[A. D. JAIN]
VICE PRESIDENT

DATED:02/03/2022

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order
Assistant Registrar