

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.576/Asr/2018  
Assessment Year: 2011-12**

Guru Gobind Singh Educational Society, G.N. Convent School VPO Bhaloor Distt. Moga. [PAN:AABTG2865L]  (Appellant)	Vs.	ITO (Exemption) Jalandhar.  (Respondent)
---	-----	---

<b>Appellant by</b>	Sh. P. N. Arora, Adv.
<b>Respondent by</b>	Sh. S. R. Kaushik, CIT. DR

<b>Date of Hearing</b>	02.03.2023
<b>Date of Pronouncement</b>	10.04.2023

**ORDER**

**Per:Anikesh Banerjee, JM:**

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income Tax (Appeals)-4,Ludhiana,[in brevity the ‘CIT (A)’]

order passed u/s 250 (6) of the Income Tax Act 1961, for A.Y. 2011-12. The impugned order was emanated from the order of the Income Tax Officer (Exemption), Jalandhar order passed u/s 148/147/143(1) of the Act date of order 28.03.2016.

The assessee has taken the following grounds: -

- “1. That Ld Cit (A) Has Erred In Facts And Law In Confirming Addition Of Rs. 3884300 Toward The Income As Against Nil Income Declared By Assessee.*
- 2. That the Ld Cit (A) Erred In Confirming The Aforesaid Addition, Whereas The Appellant had Duly Submitted Its Reply To The Satisfaction Of Assessing Authority And Also Furnished The Required Evidence As Demanded By The Assessing Authority During The Assessment Proceedings In Support Of The Claim Of Donation Being Exempt In Terms Of Section 11(1)(d) Of The Income Tax Act And Confirmation Of Addition By Ld CIT (A) Is Bad In Law.*
- 3. That The Appellant Had Legitimate Source Of Donation Of Rs.3884300/- Received As Corpus Fund Of The Society And Also Submitted Detailed List Of All The Donors Along With Their Names And Addresses As Required By Assessing Authority And All The Donors Had Also Admitted Before The Assessing Authority That They*

*Made Corpus Donation Supported By The Affidavits Along With Relevant Evidence Of Donations Made By Them To The Society To The Assessing Authority During The Assessment Proceeding And Ld CIT (A) Erred In Confirming In The Same.*

*4. That The Amount Of Donations Received As Corpus Fund Were Duly Utilized For Construction Of School Building As Per The Objects Of The Society And Confirmation Of Addition By Ld Cit(A) Is Opposed To Facts And Law And Circumstances Of Case.*

*5. Ld Cit (A) Completely Ignored The Facts, Supported With Decided Case Law That Corpus Donations Are Capital Receipts And Confirmation Of Addition Is Bad In Law.*

*6. That Ld Cit (A) Erred In Dismissing The Appeal Whereas On Certain Dates A.R. Of Assessee Did Not Appear.*

*7. That Order Pass By Ld Cit(A) Is Bad In Law.”*

2. Brief fact of the case is that the assessee's case was reopened U/s 148 of the Act, and addition was made amount of Rs.38,84,300/- related to corpus fund received by the assessee during the impugned assessment year. The assessee is an educational society and claimed exemption u/s 11 of the Act. But assessee was not registered u/s 12AA of the Act. The ld. AO placed that the assessee was also not approved u/s 10(23C) (vi). The entire corpus donation was added back with the

total income of the assessee. Aggrieved assessee filed an appeal before the Id. CIT(A). But the Id. CIT(A) pass the order *ex parte* and upheld the decision of the Id. AO. Being aggrieved assessee filed an appeal before us.

3. The Id. counsel filed adjournment petition and requested to fix another date. But during the hearing the Id. Counsel for assessee has withdrawn the adjournment petition and taken part in hearing before the bench. The Id. Counsel placed that the assessee is an educational society and do not require to register u/s 12AA or any approval u/s 10(23C)(vi) for this impugned assessment year. The Id. Counsel further mentioned that the educational society is already immune for taking approval of section 12AA subject to the turnover is below 1 crore. The Id. Counsel further claimed that the assessee was not get inform from the CIT(A) about fixation of hearing. The appeal hearing was not presented before the authority and *ex parte* order was passed.

4. The Id. Counsel further mentioned that the Id. CIT(A) had passed the order without considering the merit of the case. The Id. Counsel invited our attention in para 6 of the CIT(A) order:

*“6. On careful consideration of the material on record, it has been noticed that the assessee has failed to furnish any submissions in support of the grounds of appeal taken by it. It is observed that the assessing officer has passed well-reasoned order after considering all the relevant facts of the case. The assessee has not filed any reply or evidence to controvert the findings of the assessing officer. Therefore, for reasons recorded in the order the assessing officer, the assessment order is upheld and appeal of the assessee is dismissed.”*

5. The Id. Sr. DR argued and relied on the order of the revenue authorities.

6. We heard the rival submission and relied on the documents available in the record. The claim of the assessee before the bench that the assessee had received the corpus donation. The nature of donation and identity of the donation were explained. But the Id. AO without considering the proper fact and in wrong idea did not accept the donation and added back the amount with the total income. The Id. CIT(A) without considering the merit of the case, passed the order *ex parte*. It is found that the reasonable opportunity for verification of merit of the case is denied by the revenue authority. Accordingly, we remit back the matter to

the Id. CIT(A) for further adjudication *de novo* on merit. It is to be directed that the assessee should cooperate with the revenue in set aside proceeding. Needless to say, the assessee should get reasonable opportunity in hearing in the said proceeding.

7. In the result, the appeal of the assessee bearing **ITA No. 576/Asr/2018** is allowed for statistical purposes.

**Order pronounced in the open court on 10.04.2023**

Sd/-

**(Dr. M. L. Meena)**  
**Accountant Member**

Sd/-

**(ANIKESH BANERJEE)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order