

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY  
JUDICIAL MEMBER

**ITA No. 773/Mum/2023**  
**(A.Y. 2015-16)**

**ITO-2(3),**  
Room No. 617, 6<sup>th</sup> Floor,  
MTNL Building, Cumballa Hill  
Mumbai-400026.

**Versus Sangit Kala Kendra,**  
1<sup>st</sup> Floor, 159, Industry  
House, Padmabhusan  
H.T. Parekh Marg,  
Churchgate  
Reclamation,  
Mumbai-400020.  
**PAN: AAATS1345J**

**Appellant**

**Respondent**

Appellant/Department by : Ms. Mini Vinod, DR  
Respondent/Assessee by : Sh. Sunil Hirawat

Date of hearing : 01/06/2023  
Date of pronouncement : 20/06/2023

**ORDER**

**N.K. CHOUDHRY, J.M:**

The Revenue Department has preferred this appeal against the order dated 25.01.2023 impugned herein passed by National Faceless Appeal Centre, Delhi {in short 'NFAC'} u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for AY 2018-19.

**2.** The assessee being an registered Society, has following objects:

"a). To afford its members and public at large facilities for developments of interests in drawing, painting, drama, dance, music, and other fine arts.

b). To arrange debates, lectures, cultural shows, recitations, dramatic performances reading of papers on social, philosophical, spiritual, ethical and other topics of public interest having educational value.

c). To establish and maintain libraries, reading rooms, theatres and auditoriums, lecture halls etc. for the realization of the objects of the society.

d). To diffuse useful knowledge of arts and science through publication of books, pamphlets, periodicals, consistent with the objects of the Society.

e) To establish contacts with and help organizations having similar objects."

**3.** During the year under consideration, the assessee had received the amount of Rs. 38,00,000/- on account of "Life Admission Membership Fees" which the assessee claimed as "Corpus Donation" and therefore for justification of the same the Assessing Officer (AO) issued various notices to the Assessee.

**3.1** The Assessee in response, vide reply dated 30.08.2021, submitted the copy of bank statement, receipt of acknowledgement of the receipts of funds, issued by the assessee towards its donors but as per AO, the Assessee failed to submit the most important criteria document i.e. Declaration from the donors regarding specific direction for use of the funds as "Corpus Donation" and remained silent and not furnished any reply and supporting documents regarding the specific queries made regarding specific direction for donation to be considered as "Corpus Donation" and also PAN's of the donors.

**3.2** Ultimately the AO disallowed the amount of Rs. 38,00,000/- which was claimed to be voluntary contribution as "corpus donation" by the assessee and added in the income of the assessee by concluding as under:

*"That the assessee failed to submit the respective PANs of the donors which lacks necessary verification. The assessee was requested again and again to submit the copy of declaration received from the donors regarding specific direction for the donation to be considered as "Corpus Donation" which is a most important supporting document and decisive factors in considering the donation as "Corpus Donation" in nature, which the assessee failed to substantiate and prove."*

**4.** The assessee being aggrieved challenged the said addition before the Ld. Commissioner and claimed that it is a

registered society and during the assessment proceedings filed a statement showing the name of the donors, PANs of the donors, email of the donors, amount of donations and mode of payments stc., therefore, it is totally wrong on the part of the AO to say that in absence of PANs of the donors, the necessary verification cannot be done. The assessee further claimed that apart from PAN Numbers, the assessee by submitting a letter dated 28.01.2021 during the appellate proceedings, gave following details :

- (i) *Receipts of amount received on admission from all the new members.*
- (ii) *Letters issued by the assessee to all the new members specifying that the admission/interest fees, service tax and other small charges to all the new members.*
- (iii) *Bank statement of the assessee showing the admission fees/Entrance fees received from new members.*

**4.1** Therefore, the aforesaid letter along with the details clearly proved that allegation of AO for not submitting the details of Corpus Donation, is not correct.

**5.** The Ld. Commissioner by perusing the assessment order and the details/statements and documents furnished by the assessee, concurred with the Assessee's claim that the letters of confirmation and summarized statements, satisfied the requirement of section 11(1)(d) of the Act. For clarity, completeness and ready reference, the conclusion drawn by the Ld. Commissioner is reproduced herein below:

*“5.3 The Grounds of appeal, the statement of facts and the assessment order are considered. The AO has observed that that the appellant had failed to produce the respective PANS of the Donors; and failed to submit the copies of declaration received from the donors regarding specific direction for the donation to be considered as corpus donation. A perusal of the details filed before the AO by the appellant vide Letters dated 28.08.2021 and 17.09.2021 (Annexure A & B filed during appellate proceedings) shows that the appellant had submitted the full details of corpus donations received amounting to Rs 38,00,000/-. The enclosure to the above letters shows the name and email of donor, PAN no., amount and mode of payment and nature of donation. The appellant has relied on the decision of ITAT Chennai Branch in the case of Indian Society of officers, Anaesthesiologists v/s ITO (ITA No. 507/Mds/2014) on the issue whether the Life membership fees is corpus funds or not. I have examined all the details filed by the appellant before the AO and the facts of the case. I have seen that at the time of admission as Life / General Membership, the appellant is receiving Letter of confirmation (Annexure-B filed during appellate proceedings) in which the member clearly mention that he / she has accepted the Life / General Membership of appellant. It is also seen that the summarized position of all the letters of confirmation have been submitted to the AO vide Letter dated 17.09.2021 (Annexure A filed during appellate*

*proceedings). I agree with the appellant that the Letters of Confirmation and the summarized statement satisfy the requirement of section 11(1)(d) of Income Tax Act. In view of the above discussion, appeal on Ground No. 1 is allowed.”*

**6.** The revenue Department being aggrieved is in appeal.

**7.** Heard the parties and perused to the material available on record, given thoughtful consideration to the determination made by the authorities below, peculiar facts and circumstances of the case and rival claims of the parties. The Assessee society having four classes of Members viz.

- (i) Life Members
- (ii) General Member
- (iii) Special Member
- (iv) Honorary Member

Criteria for becoming Member and details of fees/subscription have been set out as under:

<i>Type of membership</i>	<i>Who can become Member</i>	<i>Admission Fees (one time)</i>	<i>Subscription (yearly)</i>
<i>Life Member</i>	<i>Any person other than a body corporate</i>	<i>3,00,000</i>	<i>-NIL-</i>

<i>General Member</i>	<i>Any person other than a body corporate</i>	<i>1,00,000</i>	<i>15,000</i>
	<i>Any body corporate</i>	<i>2,00,000</i>	<i>30,000</i>
<i>Special Life Member/</i>	<i>Any person other than a body corporate</i>	<i>1,50,000</i>	<i>-NIL-</i>
<i>Special Member</i>	<i>Any person other than a body corporate</i>	<i>50,000</i>	<i>15,000</i>
<i>Hony. Members</i>	<i>Any person other than a body corporate</i>	<i>-NIL-</i>	<i>-NIL-</i>

**7.1** As per clause-7, treatment of the payment of subscription received from Life Members and Admission Fee received from the General Members, has been prescribed as under:

*"Subscription received from Life Members as well as admission fee received from General Members shall be treated as the General Reserve Fund forming the Corpus of the Society's property. Subscription for the year, shall be payable in one instalment by 30<sup>th</sup> April of the same year. Members admitted during the year will pay their subscription for Subscription the entire year in one instalment."*

**7.2** Clause-7 therefore, goes to show that subscription received from the Life Members as well as Admission Fee received from General Members, shall be treated as the General Reserve Fund forming the "Corpus of the society's properties" . Even otherwise I observe from the letter dated 24.11.2014 which is an acknowledgement copy addressed by the Honorary Secretary of the Assessee Society, to Shri Lalit Daga, one of the General Members, wherein the following details have been mentioned as Corpus Fund.

* Corpus Fund (Entrance Fees)	Rs. <b>75,000.00</b>
* Half yearly subscription	Rs. 25,00.00
* Service Tax @ 12.36%	Rs. 9,579.00
* Identity Card Charges	Rs. <u>200.00</u>
<b>Total</b>	<b>Rs. 87,279.00</b>

**7.3** This letter is a confirmation letter for admission of new member, which goes to show that Corpus Fund/Entrance fees to the tune of Rs. 75,000/- has specifically mentioned and this letter has been accepted by the concerned member, therefore, the same can be treated as specific direction and consequently fulfilled the conditions/parameters of section 11(1)(d) of the Act. Hence, on the aforesaid analyzations, I do not find any perversity, impropriety and/or illegality in the decision of the Ld. Commissioner in accepting the claim of the assessee and consequently deleting the addition in hand. Consequently the impugned order is upheld.

**8.** In the result, appeal filed by the Revenue/Department stands dismissed.

Order pronounced in the open court on 20-06-2023.

Sd/-  
(N K CHOUDHRY)  
JUDICIAL MEMBER

SK, Sr.PS

**Copy of the Order forwarded to:**

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Dy. /Asstt.Registrar)  
**ITAT, Mumbai**